

Article 20. Forest Conservation

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20-1 PURPOSE

The Board of Commissioners of Calvert County have determined that to meet the requirements of the Forest Conservation Act found in Natural Resources Article, §§5-1601—5-1613, Annotated Code of Maryland, the provisions of this Article shall be enacted.

20-2 APPLICATION

A. Except as provided in Section 20-2.B below, the provisions of this Article apply to:

1. A person making application for a subdivision, site development plan, project plan, grading permit, or sediment control approval on areas 40,000 square feet or greater.
2. A public utility not exempt under Section 20-2.B below.
3. A unit of county or municipal government, including a public utility or public works project, making application for a subdivision, site development plan, project plan, grading permit, or sediment control approval on areas 40,000 square feet or greater.

B. Exemptions:

1. The provisions of this Article do not apply to the following development:
 - a. Highway construction activities under Natural Resources Article, §5-103, Annotated Code of Maryland.
 - b. Areas governed by the Calvert County Critical Area Program (see Article 21 of this Ordinance).
 - c. Agricultural activities on land assessed by the State as agricultural not resulting in the clearing of 40,000 square feet or greater of forest within a one-year period or a change in land use category, including agricultural support buildings and other related structures built using accepted best management practices.
 - d. The cutting or clearing of public utility rights-of-way licensed under Public Utility Companies, §§7-207 and 7-208 or 7-205, Annotated Code of Maryland, or land for electric generating stations licensed under Public Utility Companies, §§7-207 and 7-208 or 7-205, Annotated Code of Maryland, as amended from time to time if:
 - i. Required certificates of public convenience and necessity have been issued in accordance with Natural Resources Article, §5-1603(f), Annotated Code of Maryland; and
 - ii. Cutting or clearing of the forest is conducted to minimize the loss of forest.

e. Routine maintenance or emergency repairs of public utility rights-of-way licensed under Public Utility Companies, §7-207 and 7-208 or 7-205, Annotated Code of Maryland, as amended from time to time.

f. Except for a public utility subject to Section 20-2.B.1.e above, routine maintenance or emergency repairs of a public utility right-of-way if either:

i. The right-of-way existed before January 1, 1993; or

ii. The right-of-way's initial construction was approved under or exempted from the Calvert County Forest Conservation Program.

g. Noncoal surface mining regulated under Environment Article, Title 15, Subtitle 8, Annotated Code of Maryland.

h. An activity on a previously developed area covered by impervious surface and located in a priority funding area.

i. Maintenance or retrofitting of a stormwater management structure that may include clearing of vegetation or removal and trimming of trees, if the maintenance or retrofitting is within the original limits of disturbance for construction of the existing structure, or within any maintenance easement for access to the structure.

2. The provisions of this Article do not apply to the following development, provided that the requirements of this section are met, and a Declaration of Intent is filed with the Department of Planning & Zoning as provided in this section and in Section 20-2.C below:

a. Commercial logging and timber harvesting operations, including harvesting conducted subject to the forest conservation and management program under Tax-Property Article, §8-211, Annotated Code of Maryland, that are completed on property which:

i. Has not been the subject of application for a grading permit for development within five years after the logging or harvesting operation, and after which time the property shall be subject to the forest conservation regulations; and

ii. Is the subject of a Declaration of Intent as provided for in Section 20-2.C below, approved by the Department of Planning & Zoning, which includes a sketch map of the property showing the areas to be harvested; a Timber Harvest Plan prepared by a professional forester; and a sediment and erosion control plan approved by the Calvert County Soil Conservation District.

b. Agricultural activities on land assessed by the state as agricultural not resulting in a change in land use category, including agricultural support buildings and other related structures built using accepted best management practices that involve the clearing of 40,000 square feet or greater of forest within a one-year period shall not receive an agricultural exemption unless the person files a Declaration of Intent as provided for in Section 20-2.C below which includes:

i. A statement that the landowner or landowner's agent will practice agriculture on that portion of the property for five years from the date of the declaration; and

ii. A sketch map of the property which shows the area to be cleared.

c. A residential construction activity conducted on an existing single lot or parcel of any size which existed prior to January 1, 1993, or a linear project not otherwise exempted under this Ordinance, if the activity:

i. Does not result in the cumulative cutting, clearing, or grading of more than 20,000 square feet of forest; and

ii. Does not result in the cutting, clearing, or grading of a forest that is subject to the requirements of a previous Forest Conservation Plan approved under these regulations; and

- iii. Is the subject of a Declaration of Intent filed with the Department of Planning & Zoning, as provided for in Section 20-2.C below, stating that the lot or parcel will not be the subject of a regulated activity within five years of the cutting, clearing, or grading of forest.
 - d. An activity required for the purpose of constructing a dwelling intended for the use of the owner, or a child of the owner, if the activity:
 - i. Does not result in the cutting, clearing, or grading of more than 20,000 square feet of forest; and
 - ii. No priority areas for retention as specified in Section 20-6.B and C are included in the plat unless they are recorded as Forest Retention Area; and
 - iii. Is the subject of a Declaration of Intent filed with the Department of Planning & Zoning, as provided for in Section 20-2.C below, which states that transfer of ownership may result in a loss of exemption.
 - e. A real estate transfer to provide a security, leasehold, or other legal or equitable interest, including a transfer of title, of a portion of a lot or parcel, if:
 - i. The transfer does not involve a change in land use, or new development or redevelopment, with associated land-disturbing activities; and
 - ii. Both the grantor and grantee file a Declaration of Intent, as provided for in Section 20-2.C below.
- C. Declaration of Intent:**
1. The purpose of the Declaration of Intent is to verify that the proposed activity is exempt.
 2. A person seeking an exemption under Section 20-2.B.2 above shall file a Declaration of Intent with the Department of Planning & Zoning.
 3. The Declaration of Intent is effective for five years after the date of the signature on the Declaration of Intent.
 4. The existence of a Declaration of Intent does not preclude another exempted activity on the property subject to a Declaration of Intent, if the activity:
 - a. Does not conflict with the purpose of any existing Declaration of Intent; and
 - b. Complies with the applicable requirements for an exempted activity.
 5. If a regulated activity on the area covered by the Declaration of Intent occurs within five years of the effective date of the Declaration of Intent, either:
 - a. There shall be an immediate loss of exemption; or
 - b. There may be a noncompliance action taken by the Department of Planning & Zoning, as appropriate, under this Ordinance.
 6. An applicant may apply for a regulated activity on that area of the property not covered under the Declaration of Intent if the requirements of this Ordinance are satisfied.
 7. A person(s) failing to file a Declaration of Intent or found in noncompliance with a Declaration of Intent shall be required to:
 - a. Meet the requirements for a regulated activity.
 - b. Pay a noncompliance fee per square foot of forest cut or cleared under the Declaration of Intent or without authorization in an amount determined by the Board of County Commissioners, but not less than the amount specified in Section 5-1608(c) of the Natural Resources Article of the Maryland Code.
 - c. Be subject to other enforcement actions appropriate under the Maryland Forest Conservation Act and this Ordinance.

d. File or refile a Declaration of Intent with the Department of Planning & Zoning if no regulated activity is being proposed.

8. Commercial logging and timber harvesting: A Declaration of Intent may be part of a Forest Management Plan for the entire tract, prepared by a forester licensed in Maryland according to Business Occupations and Professions Article, Title 7, Annotated Code of Maryland, which outlines management practices needed to meet the stated objectives for a minimum of 5 years.

9. Agricultural activities or commercial logging and timber harvesting: A Declaration of Intent may be part of an amended sediment and erosion control plan, which ensures that the activity meets the conditions for an exemption as stated in Sections 20-2.B.2.a and b above.

20-3 GENERAL REQUIREMENTS

A. A person applying for subdivision, site development plan, or project plan approval, a grading permit, or a sediment control permit on units of land 40,000 square feet or greater shall comply with the following requirements:

1. A Forest Stand Delineation and a Forest Conservation Plan for the lot or parcel on which the development is located shall be submitted to the Department of Planning & Zoning.
2. Methods provided in Maryland's State Forest Conservation Technical Manual to protect retained forests and trees during construction shall be used.
3. Retention, afforestation, and reforestation areas on the lots or parcels shall be identified on the final subdivision plat as forested areas that will be left undisturbed in perpetuity and to serve water quality benefits and wildlife habitat.

B. If a person or local agency using State funds makes application to conduct a regulated activity, the State determines whether the State Forest Conservation Program applies.

20-4 FOREST STAND DELINEATION

A. A Forest Stand Delineation shall be submitted at the initial stages of subdivision, site development plan, or project plan approval, before a grading permit application, or before a sediment control application is submitted for the tract being developed.

B. The delineation shall be prepared by a licensed forester, licensed landscape architect, or a qualified professional who meets the requirements stated in Section 20-17.

C. The delineation shall be used during the review process to determine the most suitable and practical areas for forest conservation.

D. A concept plan (survey not required) shall be submitted which shows the potential location and area of the open space, lots, roads, and Forest Retention Areas.

E. The standard Forest Stand Delineation shall contain the following components:

1. A topographic map delineating steep slopes.
2. A soils map delineating soils with structural limitations, hydric soils, and highly erodible soils.
3. Location of 100-year floodplains.
4. Intermittent and perennial streams, wetlands, and their associated buffers.
5. Natural Resource Protection Areas.
6. Forest stand data indicating species, location, and size of trees and showing dominant and co-dominant forest types.

7. Rare, threatened and endangered species habitat as identified by the Maryland Department of Natural Resources.
 8. Other Priority Retention Areas (as specified in Sections 20-6.B and C).
 9. Information required by Maryland's State Forest Conservation Technical Manual and COMAR Title 08, Subtitle 19 for a full Forest Stand Delineation.
 10. Other information the Department of Planning & Zoning determines is necessary to implement this Ordinance.
- F.** If approved by the Department of Planning & Zoning, a simplified Forest Stand Delineation may be submitted for sites other than linear projects:
1. When forest does not currently exist on the site or forest on the site will not be cut, cleared, or graded for the proposed development; and
 2. All forest on the site will be protected under a long-term protective agreement.
- G.** If approved by the Department of Planning & Zoning, a simplified Forest Stand Delineation may be submitted for linear projects:
1. When disturbance to a forest area is less than 40 feet wide and the total forest disturbance is less than 120,000 square feet;
 2. When the project area does not impact sensitive environmental features, such as floodplains, hydric soils, wetlands, perennial or intermittent streams, critical habitat, steep slopes, or highly erodible soils; and
 3. If the applicant demonstrates that reasonable efforts have been made to utilize other routes.
- H.** The Department of Planning & Zoning shall consider a simplified Forest Stand Delineation if it includes the following:
1. All requirements under items E.1, E.2, E.3, E.4, E.5, and E.7 above;
 2. A Forest Stand Delineation map, meeting the requirements of COMAR 08.19.04.02 for a simplified Forest Stand Delineation map, is included in and approved as part of the application;
 3. Information required by Maryland's State Forest Conservation Technical Manual and COMAR Title 08, Subtitle 19 for a simplified Forest Stand Delineation; and
 4. Other information the Department of Planning & Zoning determines is necessary to implement this Ordinance.
- I.** A Forest Management Plan prepared and approved in accordance with this section may be submitted to the Department of Planning & Zoning to meet the requirement for a simplified Forest Stand Delineation, if the Forest Management Plan meets or exceeds the minimum criteria of the simplified Forest Stand Delineation requirement, and with written approval from the Department of Planning & Zoning.
- J.** The Department of Planning & Zoning shall provide a detailed checklist of all submission requirements and information to be included in the standard Forest Stand Delineation and simplified Forest Stand Delineation. The checklist shall be completed and submitted with the Forest Stand Delineation or Simplified Forest Stand Delineation with all required information as indicated on the checklist included.
- K.** An approved Forest Stand Delineation may remain in effect for a period not longer than five years.
- L.** Time for submittal:
1. Within 30 calendar days after receipt of the Forest Stand Delineation, the Department of Planning & Zoning shall notify the applicant whether the Forest Stand Delineation is complete and correct.

2. If the Department of Planning & Zoning fails to notify the applicant within 30 days, the delineation shall be treated as complete and correct.
3. The Department of Planning & Zoning may require further information or provide for an additional 15 calendar days under extenuating circumstances.

20-5 FOREST CONSERVATION PLAN

A. General Provisions

1. Any project for which a Forest Stand Delineation or Simplified Forest Stand Delineation is required shall also submit a Forest Conservation Plan.
2. In developing a Forest Conservation Plan, the applicant shall prioritize techniques for retaining existing forest on the site.
3. If existing forest on the site subject to a Forest Conservation Plan cannot be retained, the applicant shall demonstrate to the satisfaction of the Department of Planning & Zoning:
 - a. How techniques for forest retention have been exhausted.
 - b. Why the priority forests and priority areas specified in Sections 20-6.B and C below cannot be left in an undisturbed condition.
 - c. How the disturbance to the priority forests and priority areas specified in Sections 20-6.B and C qualifies for a variance.
 - d. If priority forests and priority areas cannot be left undisturbed, how the sequence for afforestation or reforestation will be accomplished on-site (see Section 20-8 below).
 - e. Where afforestation or reforestation will occur in priority areas in compliance with the Calvert County Forest Conservation Program.
4. If the applicant proposes to make a payment into the local forest conservation fund or to purchase credits from a forest mitigation bank the applicant shall demonstrate to the satisfaction of the Department of Planning & Zoning that the requirements for afforestation or reforestation on-site or off-site cannot be reasonably accomplished.
5. Nontidal wetlands: A regulated activity within the net tract area that occurs wholly or partly in areas regulated as nontidal wetlands under Environment Article, Title 9, Annotated Code of Maryland, is subject to both the nontidal wetlands regulatory requirements and the requirements of this law, subject to the following:
 - a. Any area of forest in the net tract area, including forest in nontidal wetlands that is retained, shall be counted towards forest conservation requirements under this law.
 - b. For the purpose of calculating reforestation mitigation under this Ordinance, a forested nontidal wetland permitted to be cut or cleared and required to be mitigated under Environment Article, Title 9, Annotated Code of Maryland, shall be shown on the Forest Conservation Plan and subtracted on an acre-for-acre basis from the total amount of forest to be cut or cleared as part of a regulated activity.
 - c. Nontidal wetlands shall be considered to be priority areas for retention and replacement.
 - d. Forested nontidal wetland identification and delineation should be included at the earliest stage of planning to assist the applicant in avoidance and reduction of impacts to the nontidal wetlands and to avoid delay in the approval process.

B. Preliminary Forest Conservation Plan

1. A preliminary Forest Conservation Plan shall be prepared by a licensed forester, a licensed landscape architect, or a qualified professional who meets the requirements stated in Section 20-17 below.

2. A preliminary Forest Conservation Plan shall:
 - a. Be submitted with the conceptual or preliminary subdivision plan, site development plan, grading permit application, or any other proposed project plan;
 - b. Include the approved Forest Stand Delineation for the site;
 - c. Include a table that lists the proposed values of the following:
 - i. Net tract area;
 - ii. Area of forest conservation required; and
 - iii. Area of forest conservation that the applicant proposes to provide, including both on-site and off-site areas.
 - d. Include a clear graphic indication of the forest conservation provided on the site drawn to scale, showing areas where retention of existing forest or afforestation or reforestation are proposed;
 - e. Include an explanation of how the provisions of Section 20-5.A of this Ordinance have been met;
 - f. In the case of afforestation or reforestation, include a proposed afforestation or reforestation plan;
 - g. Include a proposed construction timetable showing the sequence of forest conservation procedures;
 - h. Show the proposed limits of disturbance;
 - i. Show proposed stockpile areas;
 - j. Incorporate a proposed two-year maintenance agreement that shows how areas designated for afforestation or reforestation will be maintained to ensure protection and satisfactory establishment;
 - k. Information required in Maryland's State Forest Conservation Technical Manual; and
 - l. Other information the Department of Planning & Zoning determines is necessary to implement this Ordinance.
3. The Department of Planning & Zoning shall provide a detailed checklist of submission requirements and all required information to be included in the preliminary Forest Conservation Plan. The completed checklist and all required submissions and information as indicated on the checklist shall be submitted with the preliminary Forest Conservation Plan.
4. The review of the preliminary Forest Conservation Plan shall be concurrent with the review of the conceptual or preliminary subdivision plan, conceptual site development plan, grading permit application, sediment control application, or other proposed project plan.
5. During the different stages of the review process, the preliminary Forest Conservation Plan may be modified provided the Department of Planning & Zoning approves of the changes.

C. Final Forest Conservation Plan

1. A final Forest Conservation Plan shall be prepared by a licensed forester, a licensed landscape architect, or a qualified professional who meets the requirements stated in Section 20-17 below.
2. A final Forest Conservation Plan shall:
 - a. Be submitted with a final subdivision plat, detailed site development plan, final project plan, application for a grading permit, or application for a sediment control approval.
 - b. Show proposed locations and types of protective devices to be used during construction activities to protect trees and forests designated for conservation.

- c. In the case of afforestation or reforestation, include an afforestation or reforestation plan, with a timetable and description of needed site and soil preparation, species, size, and spacing to be used.
 - d. Incorporate a binding two-year maintenance agreement specified in Section 20-15 below that details how the areas designated for afforestation or reforestation will be maintained to ensure protection and satisfactory establishment, including:
 - i. Watering.
 - ii. A reinforcement planting provision if survival rates fall below required standards, as provided in Maryland's State Forest Conservation Technical Manual.
 - e. Include recorded plats that serve as long-term binding protective agreements.
 - f. Include the substantive elements required under Sections 20-5.B.2.b through e, 20-5.B.2.g through i, and 20.5.B.2.k of this Article, as finalized elements of the Forest Conservation Plan.
 - g. Any other information the Department of Planning & Zoning determines is necessary.
3. The Department of Planning & Zoning shall provide a detailed checklist of submission requirements and all required information to be included in the final Forest Conservation Plan. The completed checklist and all required submissions and information as indicated on the checklist shall be submitted with the final Forest Conservation Plan.
4. Time for submittal:
- a. Within 45 calendar days after receipt of the final Forest Conservation Plan, the Department of Planning & Zoning shall notify the applicant whether the Forest Conservation Plan is complete and approved.
 - b. If the Department of Planning & Zoning fails to notify the applicant within 45 calendar days, the plan shall be treated as complete and approved.
 - c. The Department of Planning & Zoning may require further information or extend the deadline for an additional 15 calendar days under extenuating circumstances.
 - d. At the request of the applicant, the Department of Planning & Zoning may extend the deadline under extenuating circumstances.
5. The Department of Planning & Zoning's review of a final Forest Conservation Plan shall be concurrent with the review of the final subdivision plat, detailed site development plan, or project plan, grading permit application, or sediment control application associated with the project.
6. The Department of Planning & Zoning may revoke an approved Forest Conservation Plan if it finds one or more of the following:
- a. A provision of the plan has been violated.
 - b. Approval of the plan was obtained through fraud, misrepresentation, a false or misleading statement, or omission of a relevant or material fact.
 - c. Changes in the development or in the condition of the site necessitate preparation of a new or amended plan.
7. A person who fails to comply with an approved Forest Conservation Plan or maintenance agreement is in violation of this Ordinance.
8. Before revoking an approved Forest Conservation Plan, the Department of Planning & Zoning shall notify the violator in writing and provide an opportunity for a hearing.

20-6 AFFORESTATION AND RETENTION

A. Afforestation Requirement

A person applying for subdivision, site development plan, or project plan approval, a grading permit, or a sediment control approval for an area of land of 40,000 square feet or greater, unless exempt under Section 20-2.B above, shall:

1. Conduct afforestation on the lot or parcel in accordance with Table 20-1. A tract having less than the appropriate afforestation threshold of the net tract area in forest cover shall be afforested up to at least the afforestation threshold of the net tract area.

Table 20-1: Afforestation Threshold	
Zoning District	Afforestation Threshold
Farm and Forest District, Rural Community District, Rural Neighborhood District, Waterfront Community District	20%
Institutional in Farm and Forest District, Rural Community District, Rural Neighborhood District, Waterfront Community District	15%
Residential District	15%
Town Centers and Employment Center District	15%
Rural Commercial District, Marine Commercial District, Industrial Mixed-Use District, Light-Industrial District, Heavy-Industrial District	15%

2. Comply with the following when cutting into forest cover that is currently below the afforestation percentages described Table 20-1 above:

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

B. Priority Retention Areas

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

1. Trees, shrubs, and plants located in sensitive areas including the Natural Resource Protection Area, 100-year floodplain, intermittent and perennial streams and their buffers, nontidal wetlands and their buffers, steep slopes 25% or greater that are adjacent to wetlands, streams, and waterways, steep slopes 25% or greater that form a contiguous area greater than 5,000 square feet, highly erodible soils that form a contiguous area greater than 5,000 square feet, and habitats for rare, threatened, and endangered species.
2. Contiguous forest that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site.
3. Forest contiguous with the priority areas listed in item B.1 above.
4. Forest contiguous with off-site forest, if the off-site forest is also protected by a Forest Retention Area.

C. Priority Retention – Trees, Shrubs, and Plants

The following trees, shrubs, plants, and specific areas are considered priority for retention and protection and shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the Department of Planning & Zoning, that the applicant qualifies for a variance in accordance with Section 20-18.

1. Trees, shrubs, or plants determined to be rare, threatened, or endangered under:
 - a. The federal Endangered Species Act of 1973 in 16 U.S.C. §§1531—1544 and in 50 CFR 17;
 - b. The Maryland Nongame and Endangered Species Conservation Act, Natural Resources Article, §§10-2A-01—10-2A-09, Annotated Code of Maryland; and
 - c. Threatened and Endangered Species as defined in COMAR 08.03.08;

2. Trees that one or more of the following:
 - a. Are part of an historic site.
 - b. Are associated with an historic structure.
 - c. Have been designated by the State or the Department of Planning & Zoning as a national, State, or county champion tree.
3. Any tree having a diameter measured at 4.5 feet above the ground of one or more of the following:
 - a. 30 inches or more; or
 - b. 75% or more of the diameter of the current State champion tree of that species as designated by the Department of Planning & Zoning of Natural Resources.

D. Location of Forest Retention Areas

1. Forest Retention Areas shall be located within areas that are at least 50 feet wide with a total area of at least 10,000 square feet. If on-site Forest Retention Areas are proposed to be less than 10,000 square feet in area and/or 50 feet in width, abutting off-site areas may be used to meet the 10,000 square foot and 50 feet minimum contiguity requirements if they are protected by a Forest Retention Area.
2. There shall be a ten-foot setback from Forest Retention Areas.
3. Forest Retention Areas shall be located a minimum of ten feet from any right-of-way.
4. Forest Retention Areas shall not be located on lots one acre or less in size created after the adoption of this Ordinance. In all other instances, when Forest Retention Areas are proposed within lots or parcels, the following conditions apply:
 - a. The Forest Retention Area shall be contiguous with Forest Retention Areas on other lots or parcels where applicable.
 - b. The Forest Retention Area shall be in large contiguous blocks, unless the Forest Retention Area is contiguous with Forest Retention Area on other lots or parcels.
 - c. The Forest Conservation Plan shall demonstrate that each lot or parcel contains sufficient contiguous land for the construction of a building or dwelling with amenities. Minimum sufficient contiguous suitable land area shall be exclusive of Natural Resource Protection Areas, Forest Retention Areas, septic recovery areas, and required setbacks. Minimum sufficient suitable land area shall be 20,000 square feet for lots or parcels having individual septic systems and 10,000 square feet for lots or parcels served by a public sewer or a community septic system. All lots or parcels below this minimum shall be considered having marginal amounts of suitable land for building purposes and may be required to provide detailed plot plans to prove suitability.

E. Abandonment of Forest Retention Areas

If a property owner believes that it is necessary and appropriate to abandon a Forest Retention Area, the owner shall file a request with the Department of Planning & Zoning that explains why the abandonment is believed to be appropriate. The Forest Retention Area may be abandoned if:

1. The Department of Planning & Zoning agrees that abandonment is appropriate.
2. The Forest Retention Area or portion of the Forest Retention Area sought to be abandoned is no larger than one-half acre per lot or parcel and the cumulative area of all abandonments on the lot or parcel does not exceed one-half acre.
3. Replacement Forest Retention Area is provided in an amount two times greater than the Forest Retention Area abandoned either adjacent to existing Forest Retention Area, or by meeting the requirements of item 20-8 below.

4. An administrative plat to address the Forest Retention Area to be abandoned and replacement Forest Retention Area, and other appropriate documentation in a form acceptable to the County, are recorded among the land records. A revised Forest Conservation Plan may be required.

20-7 REFORESTATION: FOREST CONSERVATION THRESHOLD

A. There is a forest conservation threshold established for all districts per Table 20-2: Conservation Threshold. The forest conservation threshold means the percentage of the net tract area at which the reforestation requirement changes from a ratio of 1/2 acre planted for each acre removed above the threshold to a ratio of two acres planted for each acre removed below the threshold.

B. After reasonable efforts to minimize the cutting or clearing of trees and other woody plants have been exhausted in the development of a subdivision, site development plan, or project plan, grading and sediment control activities, and implementation of the Forest Conservation Plan, the Forest Conservation Plan shall provide for reforestation, purchase of credits from a forest mitigation bank, or payment into the forest conservation fund, according to the formula of this section and consistent with Section 20-5.A above, and the following forest conservation thresholds for the applicable land use category:

Table 20-2: Conservation Threshold	
Zoning District	Conservation Threshold
Farm and Forest District	50%
Rural Community District, Rural Neighborhood District, Waterfront Community District	40%
Institutional in Farm and Forest District, Rural Community District, Rural Neighborhood District, Waterfront Community District	30%
Residential District	30%
Town Centers and Employment Center District	15%
Rural Commercial District, Marine Commercial District, Industrial Mixed-Use District, Light-Industrial District, Heavy-Industrial District	15%

C. Calculations:

1. For all existing forest cover measured to the nearest 1/10th acre cleared on the net tract area above the applicable forest conservation threshold, the area of forest removed shall be reforested at a ratio of 1/2 acre planted for each acre removed.
2. Each acre of forest retained on the net tract area above the applicable forest conservation threshold shall be credited against the total number of acres required to be reforested (item 1 above). The calculation of the credit shall be according to the criteria provided in Maryland’s State Forest Conservation Technical Manual.
3. For all existing forest cover measured to the nearest 1/10th acre cleared on the net tract area below the applicable forest conservation threshold, the area of forest removed shall be reforested at a ratio of two acres planted for each acre removed below the threshold.

20-8 PRIORITIES AND TIME REQUIREMENTS FOR AFFORESTATION AND REFORESTATION

A. After techniques for retaining existing forest on the site have been exhausted, the preferred sequence for afforestation and reforestation, as determined by the Department of Planning & Zoning, is as follows:

1. Forest creation in accordance with a Forest Conservation Plan using one or more of the following:
 - a. Transplanted or nursery stock, minimum one-and-a-half inches diameter measured at 4.5 feet above the ground.
 - b. Whip and seedling stock.
 - c. Natural regeneration where it can be adequately shown to meet the objective of Maryland’s State Forest Conservation Technical Manual, and with competitive invasive species control for at least two years, predation control if necessary, a five-year maintenance agreement, and a final tree density of at least 100 seedlings, saplings and/or trees per acre.

2. If the applicant demonstrates to the satisfaction of the Department of Planning & Zoning that afforestation or reforestation using forest cover is inappropriate for a site due to its location in a Priority Funding Area, afforestation or reforestation requirements may be satisfied by the planting of individual trees. Individual trees planted shall receive full credit based on canopy coverage at maturity. The trees shall be located on or adjacent to the site and shall be planted by the applicant in order to receive credit. The trees shall have a diameter of at least two inches measured at 4.5 feet above the ground at the time of planting and the species diversity requirements of Section 28-3.B of this Ordinance apply. Individual trees planted may only receive afforestation or reforestation credit if they exceed the minimum landscaping requirements of Article 28 of this Ordinance.

3. The purchase of established Forested Transferred Development Rights (FCTDRs) in accordance with Section 20-8.G below.

4. Establishment of Forest Retention Areas on existing developable forested land at least one acre in size off-site at a rate two times the acreage of afforestation or reforestation required, rounded up to the nearest whole number.

5. Landscaping or individual trees in accordance with this subsection. Trees retained or planted in landscaped areas or individually may only receive afforestation or reforestation credit if they exceed the minimum landscaping requirements of Article 28 of this Ordinance, with the exception of monument trees.

a. Large landscaped areas

The retention or planting of trees in an area greater than 2,500 square feet and at least 35 feet wide. If planting, there shall be a minimum of seven trees and 20 shrubs. The applicant shall receive full credit equal to the square footage of canopy coverage of the trees at maturity.

b. Small landscaped areas

The retention or planting of an area less than 2,500 square feet, with a minimum of three trees. If planting, there shall also be a minimum of nine shrubs. There is no minimum width requirement. The applicant shall receive half credit based on canopy coverage of the trees at maturity.

c. Individual trees

Individual trees retained or planted outside of Forest Retention Area shall receive quarter credit based on canopy coverage at maturity, with the exception of monument trees. If monument trees outside of Forest Retention Area are retained, they shall receive full credit based on the critical root zone of the tree. Monument trees include national, state or local champion trees; trees having a diameter of at least 24 inches, measured at 4.5 feet above the ground; and/or trees having a diameter that is at least 75% of the diameter of the current state champion of that species, measured at 4.5 feet above the ground.

d. Design Standards

The trees shall be located on the site and, if planted, shall be planted by the applicant in order to receive credit. If trees are planted, they shall have a diameter of at least two inches measured at 4.5 feet above the ground at the time of planting and the species diversity requirements of Section 28-3.B of this Ordinance apply. Credit shall only be granted for trees retained that are in good health.

6. After all other options have been exhausted, payment into the Forest Conservation Fund in accordance with Section 20-9 below. If the mitigation required is less than or equal to 5,000 sq. ft., fees-in-lieu may be used as the sole mitigation method.

B. A sequence other than the one described in Section 20-8.A may be used for a specific project, if approved by the Department of Planning & Zoning, and if necessary to achieve the objectives of the Calvert County Comprehensive Plan, a Town Center Master Plan, or county land use policies; to take advantage of opportunities to consolidate forest conservation efforts; or if it can be supported that a technique at a lower priority level will be as effective as a higher priority level technique. Written justification shall be submitted in support of the use of a lower priority and such discussion shall address why the higher priority options were not selected.

C. The following are considered a priority for afforestation and reforestation:

1. Those techniques that enhance existing forest and involve selective clearing and/or supplemental planting on-site.
2. On-site afforestation or reforestation where the retention options have been exhausted.

3. Off-site afforestation or reforestation in the same MD DNR eight-digit watershed or in accordance with an approved master plan where the applicant has demonstrated that no reasonable alternative exists on site, or where:
 - a. Any on-site priority areas for afforestation or reforestation have been planted in accordance with this subsection; and
 - b. The applicant has justified to the Department of Planning & Zoning's satisfaction that environmental benefits associated with off-site afforestation or reforestation exceed those derived from on-site planting.
- D. In the cases cited in items C.2 and C.3 above, the method shall be selected in accordance with item A above and the location shall be selected in accordance with item F below.
- E. Off-site afforestation or reforestation may include the use of forest mitigation banks which have been so designated in advance by the Department of Planning & Zoning.
- F. Standards for meeting afforestation or reforestation requirements shall be established using one or more of the following methods:
 1. Establish or enhance forest in buffers to intermittent and perennial streams to widths of at least 50 feet.
 2. Establish or enhance forest in non-tidal wetlands and their buffers to widths of at least 50 feet.
 3. Establish or enhance forest in 100-year floodplains, where appropriate.
 4. Establish or increase existing forested corridors to connect existing forests within or adjacent to the site and, where practical, forested corridors should be a minimum of 300 feet in width to facilitate wildlife movement.
 5. Establish or enhance forest buffers adjacent to critical habitats where appropriate.
 6. Establish plantings to stabilize slopes of 25% or greater and highly erodible soils, including the slopes of ravines or other natural depressions.
 7. Establish buffers between areas of differing land use when appropriate, or adjacent to highways or utility rights-of-way.
 8. Establish forest areas adjacent to existing forests to increase the overall area of contiguous forest cover, when appropriate.
- G. Purchase of Forest Conservation Transferable Development Rights (FCTDRs) pertain to a portion of an APD that is forested. Existing FCTDRs must be allocated to projects approved before June 30, 2024. No new FCTDRs can be created in APDs, and any unsold or unallocated FCTDRs after June 30, 2024 will revert to standard TDRs.
 1. If afforestation and reforestation are not feasible on a developing property, FCTDRs may be purchased at a rate of two times the acreage of afforestation or reforestation required, rounded up to the nearest whole number.
 2. A Simplified Forest Stand Delineation (SFSD) in accordance with Section 20-4 above is required to be submitted for the portion of the property associated with the FCTDR approval and creation.
 3. FCTDRs may be purchased from a County APD with existing forestland to be retained as forestland in perpetuity. This land shall be designated as Forest Retention Area.
 4. A plat shall be recorded in the county land records outlining the location where the Forest Retention Area is located on the APD.
 5. Covenants for the APD shall indicate that development activities including building, grading and road or utility line siting and construction are not allowed within the designated Forest Retention Area and that timber harvests and tree clearing within the designated Forest Retention Areas are only allowed with an approved Forest Management Plan.

H. Qualified conservation shall only be used on projects that are approved before June 30, 2024 and can only be used to satisfy up to 50% of the mitigation requirement. Qualified Conservation means the conservation of all or part of an existing forest that was approved on or before December 31, 2020 for the purpose of establishing a forest mitigation bank and is encumbered in perpetuity by a restrictive easement, covenant, or another similar mechanism recorded in the county land records to conserve its character as a forest.

I. A person required to conduct afforestation or reforestation under this article shall accomplish it within two years following development project completion.

20-9 PAYMENT INSTEAD OF AFFORESTATION AND REFORESTATION

A. A Calvert County Forest Conservation Fund is established to receive fee-in-lieu funds and fines and will be administered through the Department of Planning & Zoning.

B. If a person subject to this Ordinance demonstrates to the satisfaction of the Department of Planning & Zoning that requirements for afforestation or reforestation on-site or off-site cannot be reasonably accomplished in accordance with Section 20-8.A above, the person shall contribute money into the Calvert County Forest Conservation Fund:

1. For a project inside a Priority Funding Area, as defined in Natural Resources Article, §5-1610, Annotated Code of Maryland, at a rate approved by the Board of County Commissioners for the area of required planting. The rate shall be no less than the minimum fee established based on state code requirements.

2. For a project outside a Priority Funding Area, at a rate approved by the Board of County Commissioners and at least 20% higher than the rate within a PFA in accordance with state law, for the area of required planting.

C. Money contributed instead of afforestation or reforestation under this article shall be paid prior to permit issuance.

D. The Department of Planning & Zoning shall accomplish the afforestation or reforestation for the equivalent number of acres for which the money is deposited.

E. Money deposited in the local forest conservation fund:

1. May be used for afforestation or reforestation projects; tree planting projects; maintenance of existing forests; activities related to achieving tree canopy goals; site identification; land acquisition for planting or conservation purposes; purchase of permanent easements; purchase of FCTDRs; and/or administrative purposes associated with these projects or acquisitions.

2. Shall be deposited in a separate forest conservation fund and may not revert to the general fund.

F. Sites for afforestation or reforestation using fund money:

1. Except as provided in item 2 below, the reforestation or afforestation requirement under this article shall occur in the county and MD DNR eight-digit watershed in which the project is located.

2. If the afforestation or reforestation cannot be reasonably accomplished in the MD DNR eight-digit watershed in which the project is located, then the reforestation or afforestation shall occur in another watershed within the County in which the project is located.

G. In-lieu of fees above the required state minimums and noncompliance penalties may be used by the County for any purposes related to the implementation of the Forest Conservation Program. This provision does not absolve the County from meeting the requirements of item D above.

20-10 PAYMENT BY CREDITS FROM A FOREST MITIGATION BANK

A. If a person subject to the requirements of this Article demonstrates to the satisfaction of the Department of Planning & Zoning that requirements for reforestation or afforestation on-site or off-site cannot be reasonably accomplished, the person may contribute credits from a forest mitigation bank. A credit is required for each tenth of an acre of an area of required planting.

- B. The credits shall be debited from an approved forest mitigation bank within 90 calendar days after development project completion.
- C. Credits in a mitigation bank may not be approved for debiting until establishment or qualified conservation of the mitigation bank is complete.
- D. Qualified conservation banking (otherwise known as forest retention banking), is limited to banks that were established and approved on or before December 31, 2020.

20-11 ESTABLISHING FOREST MITIGATION BANKS

- A. A person may create a forest mitigation bank from which applicants may purchase credits to meet the afforestation and reforestation requirements of this Ordinance.
- B. The forest mitigation bank shall:
 - 1. Afforest or reforest an area of land in accordance with a forest mitigation bank agreement.
 - 2. Be protected by an easement, deed restrictions, or covenants which require the land in the bank to remain forested in perpetuity and shall be recorded in the county land records for the parcel on which the mitigation forest has been established.
 - 3. Limit the use of the land in the bank to those activities which are not inconsistent with forest conservation such as recreational activities, forest management under a forest conservation and management program under Tax-Property Article, §8-211, Annotated Code of Maryland, or activities specified in a Forest Management Plan prepared by a licensed forester and approved by the Department of Planning & Zoning.
 - 4. Use native plant materials for afforestation or reforestation.
 - 5. Be a minimum of one-half acre in size and standards for meeting afforestation or reforestation requirements shall be consistent with Section 20-8.F above.
- C. A person proposing to create a forest mitigation bank shall submit to the Department of Planning & Zoning a:
 - 1. Completed application on a form approved by the Department of Planning & Zoning which has been signed by an authorized individual in conformance with COMAR 08.19.04.021.
 - 2. Forest mitigation bank plan which contains a:
 - a. Vicinity map of the proposed mitigation bank site.
 - b. Simplified Forest Stand Delineation which meets the criteria in Section 20-4.H above.
 - c. Detailed afforestation or reforestation plan, which shall include a timetable and description of the site and soil preparation needed, species, size, and spacing to be utilized, the total acres to be forested or planted, the tax identification number of the parcel, the tax map, parcel and lot number, and the method of afforestation or reforestation proposed. A planting plan shall be prepared by a licensed Maryland forester, a licensed landscape architect, or a qualified professional who meets the requirements stated in Section 20-17 of this Article.
 - d. Proposed two-year maintenance agreement that:
 - i. Sets forth how the areas afforested or reforested will be maintained to ensure protection and satisfactory establishment.
 - ii. Complies with the applicable requirements for a Final Forest Conservation Plan found in this Article.
 - iii. Includes watering and reinforcement planting provisions if survival falls below required standards.

3. Copy of the deed to the property.
 4. Survey or other legally sufficient description of the bank site for inclusion in the deeds of easement, deed restrictions, or covenants.
 5. Title report or other assurance that:
 - a. The property is not encumbered by any covenants or other types of restrictions which would impair the property's use as a forest mitigation bank.
 - b. There is legally sufficient access to the forest mitigation bank site which can be used by the Department of Planning & Zoning and its assignees to inspect the forest mitigation bank.
 6. Description of the system to be used by the person owning and operating the forest mitigation bank to identify and keep track of which portions of the bank have been debited to meet an applicant's off-site afforestation or reforestation requirements.
- D.** The owner of an approved forest mitigation bank shall enter into an agreement with the Department of Planning & Zoning which contains:
1. The approved reforestation or afforestation plan.
 2. The approved system for marking and tracking which portions of the bank have been debited.
 3. An acknowledgment that the bank may not debit any portion of the afforested or reforested land until two years of successful growth has been achieved unless the banker has posted a bond or alternate form of security.
- E.** For a development to use a mitigation bank to meet its reforestation requirement, the mitigation area shall have a higher priority rating for reforestation as given in Section 20-8.F than possible on-site reforestation sites.
- F.** Once a portion of the mitigation bank is used to meet a reforestation requirement, the rest of the mitigation bank cannot be withdrawn from being a mitigation bank. Prior to the mitigation bank being recorded as a permanent Forest Retention Area, the proposed mitigation bank may be withdrawn by written request to the Department of Planning & Zoning.
- G.** A note will be recorded on the record plat of any subdivision that uses a mitigation banking site to meet its reforestation requirements indicating the tax map, parcel, and lot number and tax identification number of the property supplying the mitigation and the area of the mitigation credited to the project. The Department of Planning & Zoning will also keep a record of the transaction.
- H.** A current list of proposed mitigation banking sites will be kept in the Department of Planning & Zoning.

20-12 RECOMMENDED TREE SPECIES

- A.** Tree species used for afforestation or reforestation shall be native to the County and selected from a list of approved species established by the Department of Planning & Zoning.
- B.** The Department of Planning & Zoning shall adopt a list of tree species to be used for any required afforestation or reforestation.

20-13 BONDING OR OTHER FINANCIAL SECURITY FOR AFFORESTATION AND REFORESTATION

- A.** A person required to conduct afforestation or reforestation shall include a bond or other financial security as an element of a Forest Conservation Plan. This does not apply to agencies of any federal, state, county or municipal government.

1. Requirements

- a.** A financial security shall be furnished in the form of a surety bond, an irrevocable letter of credit, cash bond, certificate of guarantee, or other surety as authorized from time to time by the Board of County Commissioners and approved by the Office of the County Attorney. The surety shall:
- i.** Name the Board of County Commissioners as obligee.
 - ii.** Assure that the mitigation replanting is conducted in accordance with the approved mitigation plan.
 - iii.** Be in an amount equal to 1.00 times the cost as approved by the Department of Planning & Zoning of performing the mitigation, plus a review and inspection fee, as set by the Board of County Commissioners, will be submitted with the bond to cover the costs of inspections and handling of the bond. This fee will not be reimbursed.
 - iv.** Remain in force until all requirements of the mitigation plan including maintenance and monitoring have been fulfilled to the satisfaction of the Department of Planning & Zoning.
- b.** The surety may not be cancelled by the issuing entity unless both of the following requirements are fulfilled:
- i.** The issuer notifies the Board of County Commissioners and the principal of its intention to cancel the surety, in writing, by registered mail, not less than 90 days before cancellation.
 - ii.** At least 45 days before the cancellation date indicated in the notice, the principal files a commitment from another entity to provide a substitute surety that will be effective on the cancellation date indicated in the notice.

2. Forfeiture of Surety

- a.** The surety shall be subject to forfeiture if the principal fails to comply with the Forest Conservation Plan or the Maintenance Agreement.
- b.** Before forfeiture of the surety, the Board of County Commissioners shall notify the principal and the issuer, by certified mail, of the failure of the principal to comply with the Forest Conservation Plan or the Maintenance Agreement and give the principal 30 days to come into compliance.
- c.** If a person fails to come into compliance within the 30 day period, the surety shall be forfeited and the County and its agents shall be allowed access to the property to accomplish the previously bonded planting.

3. Release of Surety

- a.** If, after two years from the date of the initial planting inspection approval, the survival of plantings associated with the Forest Conservation Plan or Maintenance Agreement meets or exceeds the standards of the Plan or Agreement, the amount of the surety shall be released. Invasive species shall not be included in the number of surviving plantings.
- b.** If, after two years from the date of the initial planting inspection approval, the survival of the plantings associated with the Forest Conservation Plan or Maintenance Agreement is less than the standards of the Plan or Agreement, the surety shall be reduced by a percentage equal to the percentage of plantings that have survived, and that portion of the surety will be released. An additional review and inspection fee as set by the Board of County Commissioners will be submitted prior to partial release of the surety to cover the costs of additional inspections and handling of the remaining bond. This fee will not be reimbursed.
- c.** The Department of Planning & Zoning shall determine whether a lesser amount is sufficient to cover the cost of afforestation or reforestation, taking into account the following:
- i.** The number of acres.
 - ii.** The proposed method of afforestation or reforestation.
 - iii.** The cost of planting materials, replacement materials, and labor.

- iv. The cost of maintenance of the afforestation or reforestation project.
- v. Other relevant factors.

20-14 STANDARDS FOR PROTECTING TREES FROM CONSTRUCTION ACTIVITIES

- A.** The standards for the protection of trees from construction activity are given in Maryland's State Forest Conservation Technical Manual.
- B.** Before cutting, clearing, grading, or construction begins on a site for which a Forest Conservation Plan is required by this article, the applicant shall demonstrate to the Department of Planning & Zoning that protective devices have been established.

20-15 SHORT-TERM PROTECTIVE AGREEMENTS

A. Maintenance Agreements

- 1. A person required to conduct afforestation or reforestation under this Article shall include in the Forest Conservation Plan a binding maintenance agreement for the minimum length of two years, or until approval of the final inspection plan, whichever is greater.
- 2. Approval procedures and timing shall be consistent with the procedures provided in Section 20-5.C above.
- 3. The maintenance agreement shall detail how the areas designated for afforestation or reforestation will be maintained to ensure protection and satisfactory establishment of forest and shall follow the standards provided in Maryland's State Forest Conservation Technical Manual.
- 4. The person required to conduct the afforestation or reforestation, after this referred to as the "principal", shall present evidence of a legal right to implement the proposed maintenance agreement on a selected site by providing one of the following:
 - a. An executed deed conveying title to a selected site to the obligee.
 - b. An executed conservation easement agreement by deed of easement, plat, or administrative plat.
 - c. Written evidence of the landowner's consent to the use of a selected site.
 - d. A fully executed option agreement, long-term lease agreement, or contract of sale for a selected site.
 - e. Other written evidence of a possessory or ownership interest in a selected site.
- 5. The Department of Planning & Zoning shall be a signatory to the maintenance agreement or shall be designated a third-party beneficiary of the agreement.
- 6. The Department of Planning & Zoning may not release a bond or end monitoring without receipt of a legally binding deed, long-term lease, or conservation easement agreement on those lands where afforestation or reforestation will occur.
- 7. The maintenance agreement shall provide for access by the Department of Planning & Zoning or local authority to the afforestation or reforestation site.
- 8. Performance of the Maintenance Agreement shall be bonded in accordance with Section 20-13 of this Ordinance.

20-16 LONG-TERM PROTECTIVE AGREEMENTS

- A.** An applicant under the State or County Forest Conservation Program shall have in effect at all time a long-term protective agreement to preserve and protect areas retained in Forest Retention Area, including afforested, reforested, or forested landscaped areas.

B. Forest Retention Areas shall be located on a plat prepared by a surveyor licensed in the State of Maryland and recorded in the Calvert County Land Records. The plat shall include notes that will maintain the area in forest in perpetuity, and when they exist, with associated conservation easements and Forest Conservation Management Agreements.

C. Forest Management Plans

1. Procedure for Approval

a. The Forest Management Plan:

- i.** Shall be legally binding from the date of approval.
- ii.** Shall be prepared by a licensed professional forester.
- iii.** Shall be submitted to the Maryland Department of Natural Resources forester assigned to the county where the property is located.
- iv.** May be amended periodically, as provided for in this section.

b. The Maryland Department of Natural Resources forester shall review the plan to ensure that it is complete and consistent with this Article.

c. The Maryland Department of Natural Resources shall notify the Department of Planning & Zoning as to whether the Forest Management Plan is approved.

2. Procedure for Amendment of an Approved Forest Management Plan

a. An approved Forest Management Plan may be amended if there is a change in site conditions or landowner objectives.

b. Amendments shall be prepared by a licensed professional forester.

c. The amendment shall be submitted to the Maryland Department of Natural Resources forester assigned to the county where the property is located.

d. The Maryland Department of Natural Resources forester shall review the amendment to ensure that it is complete and consistent with this Article.

e. Once the amendment has been approved by the Maryland Department of Natural Resources, the applicant shall sign the amendment.

D. Procedure for a timber harvesting plan:

1. Timber may be harvested on forested, reforested, or afforested areas protected under an approved Forest Conservation Plan provided that the harvest:

a. Is consistent with the intent of an approved Forest Management Plan and terms of the recorded Forest Retention Area.

b. Is subject to a timber harvest plan:

- i.** Prepared by a licensed professional forester.
- ii.** Submitted to the Calvert Forestry Board for review and approval.
- iii.** That remains in effect for two years.

c. Is consistent with the intent and requirements of the approved Forest Conservation Plan.

2. The local forest conservancy district board shall notify the owner or owner's agent whether the timber harvest plan has been approved.

20-17 APPROVED QUALIFIED PROFESSIONAL

A person may prepare a Forest Stand Delineation or a Forest Conservation Plan, if the person:

- A. Is a licensed forester;
- B. Is a licensed landscape architect; or
- C. Is certified by the State as a Qualified Professional relative to the preparation of Forest Stand Delineations and Forest Conservation Plans in accordance with COMAR 08.19.06.01.

20-18 VARIANCES

- A. The Board of Appeals shall have the authority to grant variances from the Forest Conservation requirements of this Article. The Zoning Officer or its designee is authorized to grant administrative variances for disturbance of trees, shrubs, plants, and specific areas considered priority for retention and protection under these regulations.
- B. A variance may be granted only if peculiar and unusual practical difficulties or unwarranted hardships exist on a parcel, and such difficulties and hardships are created by exceptional narrowness, shallowness, or shape of the parcel, by reason of exceptional topographical conditions, or by other extraordinary situations or conditions affecting the property. Unwarranted hardship means that without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.
- C. A variance may be granted only if the applicant demonstrates that:
 1. The variance will not result in injury to the public interest.
 2. Granting the variance will not adversely affect the implementation of the Comprehensive Plan.
 3. The variance is the minimum adjustment necessary to afford relief from the regulations.
 4. The variance request is not based upon conditions or circumstances which are the result of actions by the applicant.
 5. That special conditions or circumstances exist that are peculiar to the land or structure within Calvert County and that a literal enforcement of provisions within the County's Forest Conservation Program would result in unwarranted hardship.
 6. That a literal interpretation of the Calvert County Forest Conservation Program will deprive the applicant of rights commonly enjoyed by other properties in similar areas.
 7. That the granting of a variance will not confer upon an applicant any special privilege that would be denied to other applicants.
 8. That the variance request does not arise from any condition relating to land or building use, either permitted or nonconforming, on any neighboring property.
 9. That the granting of a variance will not adversely affect water quality.
- D. Any specimen tree removed, if a variance has been granted, shall be replaced on-site by at least two native trees with a diameter measured at 4.5 feet above the ground of at least three inches at the time of planting.
- E. The Department of Planning & Zoning shall send notice of a request for a variance to the Maryland Department of Natural Resources within 15 days of receipt of a request for a variance.
- F. There is established by this Ordinance the right and authority of the Maryland Department of Natural Resources to initiate or intervene in an administrative, judicial, or other original proceeding or appeal in the State concerning an

approval of a variance under Natural Resources Article, §§5-1601—5-1612, Annotated Code of Maryland, or this Ordinance.

20-19 ENFORCEMENT AND PENALTIES

A violation of any provision of this Ordinance or a failure to comply with any requirement of this Ordinance by any person, corporation, association, partnership, or the agent of any such person, may be processed as a zoning violation under this Ordinance (see Article 33 for additional enforcement regulations).

A. Noncompliance Fees

1. A person found to be in noncompliance with this Article, an approved Forest Conservation Plan, or the associated two-year Maintenance Agreement, shall be assessed by the Department of Planning & Zoning the penalty of 30 cents per square foot of the area found to be in noncompliance with required forest conservation.
2. Money collected under Section 20-19.A.1 above will be deposited in the Calvert County Forest Conservation Fund and may be used by the County for purposes related to implementing this Ordinance.

B. Violation

1. In addition to the provisions of Section 20-19.A.1 above, a person who violates a provision of this Ordinance, or a regulation or order adopted or issued under this Ordinance, is liable for a fine in accordance with Article 33 of this Ordinance for each violation, which may be recovered in a civil action brought by the Department of Planning & Zoning.
2. Each day a violation continues is a separate violation.

C. Injunctions

The Department of Planning & Zoning may seek an injunction requiring the person to cease violation of this Ordinance and take corrective action to restore or reforest an area.

D. Complaints and Orders

1. The Department of Planning & Zoning may serve a written complaint to an alleged violator if the Department of Planning & Zoning determines that there has been a violation of:
 - a. A provision of the Forest Conservation Act.
 - b. A regulation of the Calvert County Forest Conservation Program.
 - c. An approved Forest Stand Delineation or Forest Conservation Plan.
 - d. An administrative order.
2. The corrective action may include an order to:
 - a. Restore, replant and mitigate unlawfully cleared areas as described in Sections 21-3.B and C of this Ordinance.
 - b. Submit a written report and restoration plan concerning the violation to the Department of Planning & Zoning for review and approval.

E. Grading Permit Suspension and Revocation.

The Department of Planning & Zoning may suspend or revoke a grading permit after notice to the violator if the Department of Planning & Zoning determines that one or more of the following has occurred:

1. Failure of a violator to post a required bond.
2. Failure to comply with the requirements of an administrative action or order issued under the Calvert County Forest Conservation Program, or for a violation of the Maryland Forest Conservation Act.
3. Misrepresentation in the application process or failure to disclose a relevant or material fact.

4. Violation of a Forest Conservation Plan requirement.
5. Substantial deviation from the conditions, specifications, or requirements of a plan.
6. Failure to comply with a Board of Appeals order.

F. Notice

Except as provided under Section 20-19.H below, the Department of Planning & Zoning may not suspend or revoke a Forest Conservation Plan unless the Department of Planning & Zoning first gives the violator written notice by certified mail of the specific facts that warrant suspension or revocation.

G. Contested Case Hearings

1. On receipt of written notice to suspend or revoke a Forest Conservation Plan, the violator has ten calendar days to request a contested case hearing.
2. A hearing under this regulation shall be conducted in conformance with State Government Article, §§ 10-201 — 10-217, Annotated Code of Maryland.
3. If the Department of Planning & Zoning does not receive a request for a hearing, the Forest Conservation Plan will be suspended or revoked.

H. Emergency Action

1. The Department of Planning & Zoning may order the immediate suspension of a Forest Conservation Plan if the Department of Planning & Zoning finds that the public health, safety, or welfare imperatively requires the emergency suspension.
2. Within two business days, the Department of Planning & Zoning shall give the violator written notice that the emergency action has been taken.
3. A notice of emergency action shall include a statement of specific facts on which the emergency suspension is based.