

**Article - Natural  
Resources**

§5-1603.

(a) (1) A unit of local government having planning and zoning authority shall develop a local forest conservation program:

(I) consistent with the intent, requirements, and standards of this subtitle, AND;

(II) AFFORDING DUE CONSIDERATION TO THE POLICY GOALS ESTABLISHED IN 5-7A-01 OF THE STATE FINANCE AND PROCUREMENT ARTICLE AND THE PLANS ADOPTED IN ACCORDANCE WITH SUBTITLE 4 AND TITLE 3 OF THE LAND USE ARTICLE.

(3) (i) A local authority shall review and amend, as appropriate, all current local ordinances, policies and procedures that are inconsistent with the intent and requirements of this subtitle such as parking, road width, setback, curb and gutter, grading, and sidewalk requirements.

(ii) A local forest conservation program, when approved by the

Department, may:

1. Allow clustering and other innovative land use techniques that protect and establish forests where open space is preserved, sensitive areas are protected, and development is physically concentrated; and

2. Waive PROVIDE FOR THE WAIVER OR MODIFICATION OF the requirements of this subtitle for:

(I) previously developed areas covered by impervious surface and located in priority funding areas at the time of the application for subdivision plan, grading, or sediment control permit approval,

§5-1605.

(d) (1) AT LEAST 20 DAYS BEFORE APPROVAL OF THE FOREST CONSERVATION PLAN, THE DEPARTMENT OR LOCAL AUTHORITY SHALL:

(I) PROVIDE NOTICE THAT IS CONSISTENT WITH LOCAL AUTHORITY NOTICE REQUIREMENTS TO ALL PROPERTY OWNERS ABUTTING AND ADJACENT TO THE

BOUNDARY OF THE SUBJECT PROPERTY OF ANY PROPOSED CLEARING OF A PRIORITY RETENTION AREA AS DESCRIBED IN § 5-1607(C) OF THIS SUBTITLE; AND

(II) 1. ON A NET TRACT AREA OF AT LEAST 5 ACRES AND IF AT LEAST 75% OF THE PRIORITY RETENTION AREA IS PROPOSED TO BE CLEARED, PROVIDE AN OPPORTUNITY FOR WRITTEN AND VERBAL COMMENT BEFORE PLAN APPROVAL; OR

2. FOR ANY OTHER PROJECT WHERE PRIORITY RETENTION AREA IS PROPOSED FOR CLEARING, PROVIDE AN OPPORTUNITY FOR PUBLIC WRITTEN COMMENT BEFORE PLAN APPROVAL.

(2) PROPERTY SEPARATED FROM THE SUBJECT PROPERTY BY A PUBLIC RIGHT OF WAY SHALL BE CONSIDERED ABUTTING AND ADJACENT.

(3) Within 45 days from receipt of the forest conservation plan, the Department or local authority shall notify the applicant whether the forest conservation plan is complete. If the Department or local authority fails to notify the applicant about the forest conservation plan within 45 days, the plan shall be treated as complete and approved. The Department or local authority may require further information or provide for an extension of this deadline for an additional 15 days for extenuating circumstances. In addition, at the request of the applicant, the State or local authority may extend this deadline for extenuating circumstances.

(4)(I) A PERSON PETITIONING FOR JUDICIAL REVIEW OF AN APPROVED FOREST CONSERVATION PLAN SHALL FILE THE PETITION IN ACCORDANCE WITH THE MARYLAND RULES.

(II) A PARTY SUBMITTING A PETITION FOR JUDICIAL REVIEW SHALL FILE THE PETITION WITHIN 30 DAYS OF APPROVAL OF A FOREST CONSERVATION PLAN.

(III) AN ACTION FOR JUDICIAL REVIEW BROUGHT IN ACCORDANCE WITH § 5-1605 or § 5-1607 OF THIS SUBTITLE SHALL BE CONDUCTED IN ACCORDANCE WITH THE MARYLAND RULES.

(IV) ANY JUDICIAL REVIEW OF A FOREST CONSERVATION PLAN SHALL BE LIMITED TO THE RECORD COMPILED BY THE LOCAL APPROVAL AUTHORITY.

5-1606

(b)(1) Subject to the provisions of § 1606.1 OF THIS SUBTITLE;

(I) EXCEPT AS PROVIDED IN paragraph (2) of this subsection, for all existing forest cover measured to the nearest 1/10 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 [1/4] 1 acre planted for every 1 acre removed. **REMOVED; AND**

**(2) FOR ALL EXISTING FOREST COVER LOCATED INSIDE A CERTIFIED PRIORITY FUNDING AREA AS IDENTIFIED IN §5-7B-03 OF THE STATE FINANCE AND PROCUREMENT ARTICLE AND NOT IDENTIFIED AS A PRIORITY FOR RETENTION AS DESCRIBED IN § 5-1607(C) OF THIS SUBTITLE, MEASURED TO THE NEAREST 1/10 ACRE CLEARED ON THE NET TRACT AREA, THE AREA OF FOREST REMOVED SHALL BE REFORESTED AT A RATIO OF ~~2 ACRES~~ 1/2 ACRE PLANTED FOR EVERY 1 ACRE REMOVED.**

**(3) UPON MEETING REFORESTATION AND AFFORESTATION REQUIREMENTS ALL UNFORESTED RIPARIAN BUFFERS ON SITE MUST BE AFFORESTED OR REFORESTED, EXCEPT IF THE APPLICANT DEMONSTRATES TO THE SATISFACTION OF THE LOCAL AUTHORITY THAT AFFORESTATION IN THE RIPARIAN BUFFER:**

**(I) \_\_\_\_\_ WOULD BE IN CONFLICT WITH ALLOWABLE USES AS ESTABLISHED IN THE RIPARIAN BUFFER; OR**

**(II) \_\_\_\_\_ IS LOCATED ON PARK PROPERTY, AND CONFLICTS WITH THE MISSION AND ESTABLISHED STEWARDSHIP PRACTICES OF THE PARK; OR**

**(III) \_\_\_\_\_ IS NOT SUITABLE TO ESTABLISH AND RETAIN REQUIRED PLANTING MATERIALS, THEN A SUBSTITUTE ENVIRONMENTAL PROTECTIVE MEASURE MUST BE IMPLEMENTED.**

**~~(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 under paragraph (1) of this subsection.~~**

**~~(C) For all existing forest cover measured to the nearest 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 2 acres planted for every 1 acre removed.~~**

5-1607

(c) (1) The following trees, shrubs, plants, and specific areas shall be considered priority for retention and protection, and they shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the State or local authority, that reasonable efforts have been made to protect them and the plan cannot reasonably be altered:

**(IV) FOREST LOCATED IN A TARGETED ECOLOGICAL AREA AS IDENTIFIED BY THE DEPARTMENT.**

(2) The following trees, shrubs, plants, and specific areas shall be considered priority for retention and protection, and they shall be left in an undisturbed

condition unless the applicant has demonstrated, to the satisfaction of the State or local authority, that the applicant qualifies for a variance under § 5-1611 of this subtitle:

- (i) Trees, shrubs, or plants identified on the list of rare, threatened, and endangered species of the U.S. Fish and Wildlife Service or the Department;
- (ii) Trees that are part of a historic site or associated with a historic structure or designated by the Department or local authority as a national, State, or local Champion Tree; and
- (iii) Trees having a diameter measured at 4.5 feet above the ground of:
  - 1. 30 inches; or
  - 2. 75% of the diameter, measured at 4.5 feet above the ground, of the current State Champion Tree of that species as designated by the Department.

**(3) THE DEPARTMENT OR A LOCAL AUTHORITY SHALL ISSUE WRITTEN FINDINGS AND JUSTIFICATION FOR ANY CLEARING OF THE PRIORITY RETENTION AREAS DESCRIBED IN PARAGRAPHS (1) OR (2) OF THIS SUBSECTION.**

**(4) ANY JUDICIAL REVIEW OF A FINAL FOREST CONSERVATION PLAN DETERMINATION SHALL BE LIMITED TO THE RECORD COMPILED BY THE LOCAL APPROVAL AUTHORITY.**

**SECTION 11. AND BE IT FURTHER ENACTED. That this act may not apply to:**

**(1) A FOREST CONSERVATION PLAN APPROVED BEFORE JULY 1, 2024 THAT IS ASSOCIATED WITH A SUBDIVISION PLAN, SITE PLAN, BUILDING PERMIT, OR GRADING OR SEDIMENT CONTROL APPLICATION;**

**(2) REVISIONS TO THE PLANS AND PERMITS REFERENCED IN SUBPARAGRAPH (1) THAT DO NOT MATERIALLY ALTER THE PROPOSED OR ACTUAL LIMITS OF DISTURBANCE.**