

**COUNTY COUNCIL OF CECIL COUNTY, MARYLAND
LEGISLATIVE SESSION 2020-12**

BILL NO. 2020-06

Title of Bill: Amendment – Forest Conservation Regulations

Synopsis: A Bill to amend the Cecil County Forest Regulations, Article VI, Forest Conservation Plan, to add text to Final Forest Conservation Plan; Article VII, Afforestation and Retention, to add text to Afforestation Requirement; Article X, Payment Instead of Afforestation and Reforestation, to add text to Forest Conservation Fund; Article X-3, Forest Retention Banks, to add new sections of Establishing Forest Retention Banks and Using a Forest Retention Bank.

Introduced by: Council President at the request of the Executive

Introduced and order posted on: June 9, 2020

Public hearing scheduled on: July 7, 2020 at 7:00 p.m.

Consideration scheduled on: July 21, 2020

By: James Massey
Council Manager

PUBLIC HEARING

Notice of time and place of public hearing and title of Bill having been posted by June 9, 2020 at the County Administration Building, 200 Chesapeake Blvd., Elkton, and having been published according to the Charter on June 24, 2020 and July 1, 2020, a public hearing was held on July 7, 2020 and concluded on July 7, 2020.

By: James Massey
Council Manager

Explanation: CAPITAL LETTERS INDICATE LANGUAGE ADDED TO EXISTING DOCUMENT
~~Strike through~~ indicates language deleted from existing document
Underlining indicates language added to document by amendment.
~~Double Strike through~~ indicates language stricken from document by amendment.

WHEREAS, the Natural Resources Article of the Annotated Code of Maryland, Title 5, Forests and Parks, Subtitle 16. Forest Conservation, Section 5-1603 empowers the Counties to develop a local forest conservation program, consistent with the intent, requirements, and standards of the State Forest Conservation Program; and

WHEREAS, pursuant to Sections 5-1612 through 5-1625 of the Natural Resources Article, the Cecil County Department of Planning and Zoning prepared the Forest Conservation Regulations, which was adopted by the Board of County Commissioners of Cecil County on December 9, 1992; and

WHEREAS, the Department of Planning and Zoning has recommended amendments to the Cecil County Forest Conservation Regulations; and

WHEREAS, a public hearing on these proposed changes was held before the Planning Commission on Monday, May 18, 2020; and

WHEREAS, the Planning Commission recommended approval of the amendments to the Forest Conservation Regulations.

NOW THEREFORE, BE IT HEREBY ENACTED BY THE COUNTY COUNCIL OF CECIL COUNTY, MARYLAND, that the Cecil County Forest Conservation Regulations shall be amended as follows:

Article VI. Forest Conservation Plan

Section 6.3 The Final Forest Conservation Plan.

A. 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 Article XVIII of these regulations.

B. A final forest conservation plan shall:

1) Be submitted with the following:

i. A final subdivision plan,

ii. A final project plan,

iii. A site plan,

iv. An application for a grading permit, or

v. An application for a sediment control permit;

2) Include the substantive elements required under Section 6.2B of this article with any necessary amendments to the preliminary forest conservation plan as finalized elements of the forest conservation plan; and

- 31 3) Includes other information the Department determines is necessary to implement these
32 regulations.
- 33 C. Time period for review.
- 34 1) Within 45 calendar days after receipt of the final forest conservation plan, the Department
35 shall notify the applicant whether the forest conservation plan is complete and approved.
- 36 2) If the Department fails to notify the applicant within 45 days, the plan shall be treated as
37 complete and approved.
- 38 3) The Department may require further information or extend the deadline for an additional
39 15 calendar days under extenuating circumstances. The applicant shall be notified of the
40 necessary extension at least 5 days prior to the end of the 45 day deadline.
- 41 4) At the request of the applicant, the Department may extend the deadline under extenuating
42 circumstances.
- 43 D. The Department's review of a final forest conservation plan shall be concurrent with the review of
44 the final subdivision plan, site plan, project plan, grading permit application, or sediment control
45 application associated with the project.
- 46 E. The Department may revoke an approved forest conservation plan if it finds that:
- 47 1) A provision of the plan has been violated;
- 48 2) Approval of the plan was obtained through fraud, misrepresentation, a false or misleading
49 statement, or omission of a relevant or material fact; or
- 50 3) Changes in the development or in the condition of the site necessitate preparation of a
51 new or amended plan.
- 52 F. The Department may issue a stop work order against a person who violates a provision of this
53 ordinance or a regulation, order, approved forest conservation plan, or maintenance agreement.
- 54 G. Before revoking approval of a forest conservation plan, the Department shall notify the violator in
55 writing and provide an opportunity for a hearing.
- 56 H. **A FINAL FOREST CONSERVATION PLAN MAY ONLY BE REVISED IF THE REVISION TO THE NEW**
57 **AREA OF FOREST CONSERVATION IS OF HIGHER QUALITY FOREST OR BENEFIT TO THE FOREST**
58 **CONSERVATION PROGRAM.**

59 Article VII. Afforestation and Retention

60 Section 7.1 Afforestation Requirement.

Except for activities exempted in Section 3.2 of these regulations, a person making application after the effective date of these regulations for subdivision, site plan or project plan approval, a grading permit, or a sediment control permit for a tract involving land of 40,000 square feet or greater, shall:

A. Conduct afforestation on the lot or parcel in accordance with the following:

1) A tract having less than 20 percent of the net tract acreage in forest cover shall be afforested up to at least 20 percent of the net tract area for the following land use categories:

- a) Agriculture and resource areas, and
- b) Medium density residential areas;

2) A tract with less than 15 percent of its net tract area in forest cover shall be afforested up to at least 15 percent of the net tract area for the following land use categories:

- a) Institutional development areas,
- b) High density residential areas,
- c) Mixed use and planned unit development areas, and
- d) Commercial and industrial use areas;

B. Comply with the following when cutting into forest cover that is currently below the afforestation percentages described in Section 7.1(A)(1) and (2) of this article:

- 1) The required afforestation level shall be determined by the amount of forest existing before cutting or clearing begins; and
- 2) 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.

3) **RETENTION MAY BE USED FOR AFFORESTATION REQUIREMENTS PROVIDED:**

- a) **THE RETENTION AREA IS LOCATED ON THE SAME SITE,**
- b) **A STANDARD FOREST STRAND DELINEATION HAS BEEN PREPARED FOR THE PROPOSED RETENTION AREA, AND,**
- c) **SHALL BE RETAINED AT A 3 TO 1 RATIO TO THE AMOUNT OF AFFORESTATION NECESSARY TO REACH THE MINIMUM REQUIRED AFFORESTATION LEVEL, AS**

**DETERMINED BY THE AMOUNT OF AFFORESTATION REQUIRED FROM THE NET
TRACT AREA.**

Article X. Payment Instead of Afforestation and Reforestation

Section 10.1. Forest Conservation Fund

- A. If a person subject to these regulations believes that requirements for reforestation or afforestation onsite or offsite cannot be reasonably accomplished, the person shall submit a written request to the Department requesting that payment into the Forest Conservation Fund be allowed.
- B. If there is no local forest conservation fund established, a person may contribute to the State fund. The Department of Natural Resources shall determine when contribution is allowable under COMAR 08.19.02.02I.
- C. **PRIOR TO ESTABLISHING A LOCAL FEE IN LIEU PROGRAM THE COUNTY MUST COMPLY WITH THE REQUIREMENTS OF THE NATURAL RESOURCES ARTICLE S-1610, INCLUDING ESTABLISHMENT OF A GENERAL PLAN IDENTIFYING APPROPRIATE AND POTENTIALLY AVAILABLE AREAS FOR MITIGATION PROJECTS; ACCOUNTING PROCEDURES FOR ACCURATELY TRACKING MONEY RECEIVED AND EXPENDED; AND METHOD THAT THESE PLANS AND PROCEDURES ARE MADE AVAILABLE TO THE PUBLIC.**

ARTICLE X-3. FOREST RETENTION BANKS

SECTION 10.1.3 ESTABLISHING FOREST RETENTION BANK

10.1.3 Forest Mitigation Banks

- A. **A PERSON MAY ESTABLISH A FOREST RETENTION BANK FROM WHICH APPLICANTS MAY PURCHASE CREDITS TO MEET THE FOREST RETENTION REQUIRMENTS OF THIS ORDINANCE.**
- B. **TO ESTABLISH A FOREST RETENTION BANK, A PERSON SHALL:**
- 1) **HAVE REVIEWED AND APPROVED A STANDARD FOREST STAND DELINEATION AS OUTLINES IN ARTICLE V OF THESE REGULATIONS.**
 - 2) **HAVE BOUNDARY LINE SURVEY COMPLETED BY A MARYLAND LICENSED SURVEYOR IN ORDER TO ESTABLISH AN ACCURATE AMOUNT OF ACRES AVAILABLE FOR BANKING PURPOSES.**
 - 3) **DEED RESTRICTIONS, TO ENSURE THE LONG-TERM PROTECTION OF**

FORESTED AREAS TO BE PLACED IN THE FOREST BANK, MUST BE
RECORDED PRIOR TO THE SALE OF ANY CREDITS FROM THE BANK.

SECTION 10.1.4. USING A FOREST RETENTION BANK

- A. THE USE OF A FOREST RETENTION BANK SHALL ONLY BE CONSIDERED IF THE APPLICANT DEMONSTRATES, TO THE SATISFACTION OF THE DIVISION OF PLANNING AND ZONING, THAT THE REQUIREMENTS FOR ONSITE RETENTION CANNOT BE REASONABLY ACCOMPLISHED.**
- B. TO USE THE CREDITS WITHIN A FOREST RETENTION BANK, A PERSON SHALL:**
- 1) PREPARE A FOREST CONSERVATION PLAN FOR THE AREA CREDITS ARE TO BE USED AS OUTLINED IN ARTICLE VI OF THESE REGULATIONS.**
 - 2) A NOTE MUST BE PLACED ON THE SUBDIVISION PLAT OR SITE PLAN FOR THE PROJECT, WHICH IS USING THE CREDITS FROM A FOREST RETENTION BANK REFERRING TO THE APPROVED FOREST CONSERVATION PLAN, USING THE FOREST RETENTION BANK.**
 - 3) A FOREST CONSERVATION BANK AGREEMENT MUST BE EXECUTED AND RECORDED BETWEEN THE OWNER OF THE BANK AND THE APPLICANT. A COPY OF THE RECORDED AGREEMENT SHALL BE PROVIDED TO THE DIVISION OF PLANNING AND ZONING, AS PROOF OF THE AGREEMENT.**
 - 4) A FOREST CONSERVATION PLAN UTILIZING THE BANK SHALL NOT BE APPROVED UNTIL THE AFOREMENTIONED ITEMS ARE ADDRESSED TO THE DIVISION'S SATISFACTION.**

Article XX. Annual Report

Section 20.1. On or before March 1 of each year, the Department shall submit to the Department of Natural Resources a report on:

- A. The number, location, and type of projects subject to the provisions of these regulations;**
- B. The amount and location of acres cleared, conserved, and planted in connection with a development project;**

- 151 C. The amount of reforestation and afforestation fees and noncompliance penalties
152 collected and expended; and
- 153 D. The costs of implement the Forest Conservation Program.
- 154 E. Location and size of all forest mitigation banks approved during the past year with a description of
155 the priority areas afforested or reforested by the bank;
- 156 F. Number of acres debited from each forest mitigation bank since the last annual report; and
- 157 G. Forest mitigation banks inspected since the last annual report.
- 158 H. **THE NUMBER OF ACRES FOR WHICH FEES WERE COLLECTED, AND THE NUMBER OF ACRES**
159 **REFORESTED, AFFORDESTED, OR CONSERVED USING THE FEES.**
- 160 **AND IT IS FURTHER ENACTED BY THE COUNTY COUNCIL OF CECIL COUNTY, MARYLAND,**
161 **that this Bill shall take effect 60 calendar days from the date that it becomes law.**

CERTIFICATION

I, HEREBY CERTIFY that the above Bill was posted for the public on the public bulletin board with the date, time and location of the public hearing meeting, copies were made available for the public, a copy was distributed to the press, and copy was made available on the Cecil County website.


BY Council Manager

BILL NO: 2020-06

Title of Bill: Amendment – Forest Conservation Regulations

is hereby submitted to the County Council of Cecil County, Maryland for enrollment as being the text as finally passed.

CERTIFIED TRUE AND CORRECT

James Massey
Council Manager

Date: July 21, 2020

ENROLLED

R. M. J.
Council President

Date: July 21, 2020

BY THE COUNCIL

Read the third time.

Passed – LSD 2020-15

Failed of Passage – LSD _____

BY: James Massey
Council Manager

SEALED WITH THE COUNTY SEAL AND PRESENTED TO THE COUNTY EXECUTIVE for approval this

22 day of July, 2020 at 1:00 am/pm
(within 10 business days from adoption §306)



BY: James Massey
Council Manager

BY THE EXECUTIVE:
Alfred S. McChesney
Cecil County Executive

APPROVED Date: 7/23/2020

VETOED Date: _____
(within 10 business days from presentation §306)

BY THE COUNCIL

Bill No. 2020-06 having been approved by the Executive and returned to the Council becomes law

on July 23, 2020 with an effective date of September 21, 2020

BY: James Massey
Council Manager