

Bill No. 20-08
Concerning: Amending Chapter 1-21 of the County
Code (Forest Resource Ordinance) to Increase Forest
Conservation Efforts
Introduced: June 16, 2020
Revised: _____ Draft No. _____
Enacted: July 21, 2020
Effective: September 19, 2020
Expires: September 14, 2020
Frederick County Code, Chapter 1-21
Section(s) 5, 40, and 42

COUNTY COUNCIL FOR FREDERICK COUNTY, MARYLAND

By: Council Member Kai Hagen on behalf of County Executive Jan Gardner

AN ACT to: amend Chapter 1-21 of the Frederick County Code (Forest Resource Ordinance) to increase forest conservation efforts.

Executive: Jan H. Gardner Date Received: August 13, 2020
Approved: ✓ Date: 8/13/20
Vetoed: _____ Date: _____

By amending:

Frederick County Code, Chapter 1-20 Section(s) 5, 40, 41

Other: _____

Boldface

Underlining

[Single boldface brackets]

* * *

Heading or defined term.

Added to existing law.

Deleted from existing law.

Existing law unaffected by bill.

The County Council of Frederick County, Maryland, finds it necessary and appropriate to amend Chapter 1-21 of the Frederick County Code (Forest Resource Ordinance) to increase forest conservation efforts and to update certain definitions.

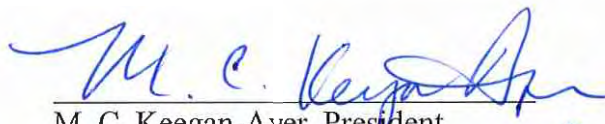
NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF FREDERICK COUNTY, MARYLAND, that the Frederick County Code be, and it is hereby, amended as shown on the attached Exhibit 1.

AND BE IT FURTHER ENACTED that the following transitional provisions shall apply:

(1) The amendments and revisions to Chapter 1-21 enacted by this Bill shall apply to:

(a) Any Forest Stand Delineation, Preliminary Forest Conservation Plan, Final Forest Conservation Plan, or any combination thereof, and any exemption application, received by the Department for approval, reapproval, or extension on or after the effective date of this Bill.

(b) Any revised Forest Stand Delineation, Preliminary Forest Conservation Plan, Final Forest Conservation Plan, or any combination thereof, and any exemption application, received by the Department for approval, reapproval, or extension on or after the effective date of this Bill.


M. C. Keegan-Ayer, President
County Council of Frederick County, Maryland

CHAPTER 1-21 FOREST RESOURCES

§ 1-21-5. DEFINITIONS.

INTERMITTENT STREAM. [A stream in which surface water is absent during a part of the year as shown on the most recent 7.5 minute topographic quadrangle published by the United States Geologic Survey as confirmed by field verification.] A stream that has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from precipitation is a supplemental source of water for stream flow. These streams are identified through field verification and as approved by the Department. The most recent county hydrography layer may be used as a guide for the preliminary establishment of possible watercourses.

PERENNIAL STREAM. [A stream containing surface water throughout an average rainfall year, as shown on the most recent 7.5 minute topographic quadrangle published by the United States Geologic Survey, as confirmed by field verification.] A stream that has flowing water year-round during a typical year. The water table is located above the streambed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from precipitation is a supplemental source of water for stream flow. These streams are identified through field verification and as approved by the department. The most recent county hydrography layer may be used as a guide for the preliminary establishment of possible watercourses.

§ 1-21-40. CONSERVATION AND FORESTATION PRIORITIES.

(A) *In general.* In the implementation of any subdivision or development project, priority shall be given:

(1) First, to conservation of existing on-site forest areas according to the sequence listed in subsection (B) of this section;

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(2) Second, to forestation of on-site areas according to the sequence listed in subsection (C) of this section;

(3) Third, to forestation or mitigation off- site according to the sequence listed in subsection (D) of this section.

(B) *Priority areas for on-site conservation.*

(1) Trees, shrubs, and plants in priority areas shall be retained and protected and shall be left in an undisturbed condition. The applicant must demonstrate to the satisfaction of the Department that reasonable efforts have been made to protect them and that the plan cannot reasonably be altered. Priority areas include:

(a) Hydrologically-sensitive areas [, including the 100 year floodplain and all other floodplains listed in the Zoning Ordinance, § 1-19-9.100, as amended; streams and their buffers; steep slopes (25%) contiguous to or within 50 feet of hydrologically-sensitive areas; and wetlands];

(b) Forest segments that connect large forested or heavily vegetated tracts of land within or adjacent to the site;

(c) Areas that contain trees, shrubs, or plants identified as rare, threatened, or endangered under the Federal Endangered Species Act of 1973 in 16 U.S.C. §§ 1531-1544 and in 50 CFR 17, or under COMAR 08.03.08;

(d) Critical habitat areas for sedentary animal species; identified as threatened, endangered or in-need-of-conservation under the Maryland Nongame and Endangered Species Conservation Act, Md. Code Ann., Natural Resources Article, §§ 10-2A-01 through 10-2A-09.

(e) Nonhazardous trees that:

1. Are part of a historic site;
2. Are associated with a historic structure;
3. Have been designated by the state or the Department as a national, state, county, or municipal champion tree; and
4. Are specimen trees, or are 75 percent or more 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 of Natural Resources.

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(2) Any of the priority areas listed in subsection (B)(1) of this section that are not retained shall be deemed a modification requiring approval under § 1-21-21 of this chapter, unless the exception is authorized by § 1-19-9.110, as amended, of the Zoning Ordinance.

(3) The following trees or forested areas shall be retained and protected unless the applicant has demonstrated to the satisfaction of the Department that reasonable efforts have been made to protect them and the plan cannot reasonably be altered:

(a) Forest areas that buffer significantly noncompatible land uses, such as industrial and residential, as determined by the Department; and

(b) Other forested areas that because of their size, location, species composition, or quality are deemed by the Department as being worthy of conserving permanently.

(C) *Priority sequence for on-site forestation.* After every reasonable effort to minimize the cutting and clearing of trees and other woody plants in on-site priority areas listed in § 1-21-40(B) has been exhausted, the following areas shall be considered the priority sequence for on-site forestation:

(1) Buffers adjacent to intermittent and perennial streams to widths of at least 50 feet from stream banks;

(2) Areas in 100 year floodplains and all other floodplains listed in the Zoning Ordinance, § 1-19-9.100;

(3) Corridors to connect existing forests within or adjacent to the development site with a minimum width of 300 feet where practical to facilitate wildlife movement;

(4) Buffers adjacent to critical habitats where appropriate;

(5) Slopes of 25% or greater and slopes of 15% or greater with a soil K value greater than 0.35, including the slopes of ravines or other natural depressions;

(6) Areas identified as green infrastructure network and/or sensitive species areas in the green infrastructure sector of the Livable Frederick Master Plan;

~~[(6)]~~ (7) Buffers between differing land uses that are deemed to be noncompatible by the Department or buffers adjacent to highways; and

~~[(7)]~~ (8) Lands adjacent to existing forests to increase the overall area of contiguous forest cover, when appropriate.

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§ 1-21-42. REFORESTATION AND CONSERVATION THRESHOLD.

[Subsection 1-21-42(A) remains unchanged]

(B) Calculation of Requirements. There are two methods to calculate reforestation requirements. The method that results in the most reforestation shall be used.

(1) The first method shall require a 1:1 replacement. This means that for every one acre (or portion thereof) of forest removed, one acre must be planted.

(2) The second method, the "Standard Method", is set forth in subsection 1-21-42(D).

(B)C) Definitions restated. **REFORESTATION** under this section means the planting of trees to replace forest that has been recently or is proposed to be removed by development. **CONSERVATION THRESHOLD** means the percentage of the net tract area at which the reforestation requirement changes from a ratio of one-quarter acre planted for every 1 acre removed to a ratio of 2 acres planted for every 1 acre removed according to the land use categories as listed below:

<i>Category of Use</i>	<i>Threshold Percentage</i>
(1) Agricultural and Resource Conservation Zones, except for cluster developments therein which shall utilize R-1 values	50
(2) R-1 Residential zoned areas	25
(3) Institutional use areas in any zone	20
(4) R-3, R-5, R-8, R-12, R-16 and Mobile Home Park zoned areas	20
(5) Mixed Use and Planned Unit Development zoned areas	15
(6) Commercial and Industrial Use zoned areas	15

Required reforestation under the Standard Method shall be calculated according to the formulas provided in subsection (C)D) of this section.

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1
2 ([C]D) Standard Method Calculations.

3 (1) For all existing forest cover cleared on the net tract area above the applicable conservation
4 threshold established by subsection ([A]C) of this section, the area of forest removed shall be
5 reforested at a ratio of one quarter acre planted for every acre removed.

6 (2) For all existing forest cover cleared on the net tract area below the applicable conservation
7 threshold, the area of forest removed shall be reforested at a ratio of 2 acres planted for each acre
8 removed.

9 (3) For each acre of forest retained on the net tract area above the applicable conservation
10 threshold, credit shall be given against the total number of acres required to be reforested under
11 subsection ([C]D)(1) of this section.

12 ([D]E) Accuracy Standards. All calculations of reforestation requirements shall be calculated
13 to the nearest one-hundredth acre and shall be in accordance with the worksheet provided in the
14 Technical Manual and approved by the Department. However, forest field measurements may be
15 measured to the nearest one-tenth acre.