

- D. Agricultural activities not resulting in a change in land use category, including agricultural support buildings and other related structures built using accepted best management practices, except that a person who is engaging in an agricultural activity who clears 40,000 square feet or greater of forest within a one-year period may not receive an agricultural exemption unless the person files a Declaration of Intent as provided for in Section 8-3.03 ~~below~~ which includes:
 - 1. 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
 - 2. A sketch map of the property, which shows the area to be cleared;
- E. The cutting or clearing of public utility rights-of-way licensed under Article 78, §§54A and 54B or §54-I, Annotated Code of Maryland. or land for electric generating stations licensed under Article 78, §§54A and 54B or §54-I, Annotated Code of Maryland, **as amended from time to time** if:
 - (10/5/93) 1. Required certificates of public convenience and necessity have been issued under the State Forest Conservation Act; and
 - 2. Cutting or clearing is conducted to minimize the loss of forest;
- F. Routine maintenance or emergency repairs of public utility rights-of-way licensed under Article 78, §§54A and 54B or §54-I, Annotated Code of Maryland, **as amended from time to time**;
- (10/5/93) G. Except for a public utility subject to Section 8-3.02.F ~~above~~, any routine maintenance or emergency repairs of a public utility right-of-way or road right-of-way if:
 - 1. The right-of-way existed before January 1, 1993; or
 - 2. The right-of-way's initial construction was approved under or exempted from the Calvert County Forest Conservation Program;
- (9/30/03) H. Any single-family residential **development** activity conducted on an **existing** single lot of any size **which existed prior to January 1, 1993**, if the activity
 - ~~1.~~ does not result in the cumulative cutting, clearing, or grading of more than ~~40,000~~ **20,000** square feet of forest **on lots greater or equal to 40,000 sq. ft. in size and 10,000 sq. ft. of forest on lots less than 40,000 sq. ft. in size.**
 - ~~2.~~ ~~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~~
- ~~I.~~ ~~Strip mining or deep mining of coal regulated under Natural Resources Article, Title 7, Subtitle 5, 5A or 6A, Annotated Code of Maryland;~~
- (10/5/93) ~~J.~~ Non-coal surface mining regulated under Natural Resources Article, Title 7, Subtitle 6A, Annotated Code of Maryland;

- ~~K.~~ An activity required for the purpose of constructing a dwelling intended for the use of the owner, or a child or a grandchild of the owner, if the activity:
 1. Does not result in the cutting, clearing, or grading of more than ~~40,000~~ **20,000** square feet of forest; and
 2. Is the subject of a Declaration of Intent as provided for in Section 8-3.03 **below**;
- ~~L.~~ **A preliminary plan of subdivision or a grading or sediment control permit approved before July 1, 1991;**

- MK.** A real estate transfer to provide a security, leasehold, or other legal or equitable interest, including a transfer of title, in a portion of a lot or parcel, if:
 1. The transfer does not involve a change in land use, or new development or redevelopment, with associated land disturbing activities; and
 2. Both the grantor and grantee file a Declaration of Intent as provided for in Section 8-3.03 **below**.

(10/5/93)

Moved to Section 8-3.04.C.6.c.

- ~~N.~~ ~~Cluster subdivisions in which no afforestation or reforestation is necessary, over 50 percent of the parcel is maintained in designated open space and all forested priority retention areas as designated by intermittent and perennial streams and their buffers, conservation areas as defined by the Subdivision Regulations (Section 7-1.07.C.2) and approved by the Planning Commission, non-tidal wetlands and their buffers, designated critical habitat, or the 100 year floodplain are retained in forest except for unavoidable crossings for road or single driveway (not multiple driveways) access. In addition, a minimum of 20 percent of the forest cover onsite must be retained.~~

(10/5/93)

- ~~O.~~ ~~Grading plans for existing roadway rights-of-way in subdivisions recorded prior to July 1, 1991 or in subdivisions having final approval under or found exempt from the Forest Conservation Program.~~

(10/5/93)

- ~~P.~~ ~~Any grading, clearing or sediment control plan approved before January 1, 1993.~~

8-3.03 Declaration of Intent

- A. The purpose of the Declaration of Intent is to verify that the proposed activity is exempt.
- B. A person seeking an exemption under Section 8-3.02.C,D, **J and K and M, above**, shall file a Declaration of Intent with the County.
- C. The existence of a Declaration of Intent does not preclude:
 1. 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;

2. A regulated activity on the area of the property not covered under the Declaration of Intent.
- D. A person(s) failing to file a Declaration of Intent or found in noncompliance with a Declaration of Intent shall be required to:
1. Meet the requirements for a regulated activity;
 2. Pay a noncompliance fee of 30 cents per square foot of forest cut or cleared under the Declaration of Intent or without authorization;
 3. Be subject to other enforcement actions appropriate under the Maryland Forest Conservation Act and this Ordinance; and
 4. File or refile a Declaration of Intent with the County if no regulated activity is being proposed.
- E. The Declaration of Intent is effective for five years from the issuance of a grading exemption, grading permit, or building permit for the exempt activity.
- F. If a regulated activity is proposed within five years of the date of the Declaration of Intent, then the area cleared under the Declaration of Intent shall be considered forest.**

~~8-3.04~~ Effective Date

(10/5/93)

(10/5/93)

- ~~A. The absence of an approved Forest Conservation Plan does not prevent the County from approving an application for final plat or equivalent approval, if the application is:~~
- ~~1. Filed before January 1, 1993; and~~
 - ~~2. Has received preliminary approval and has met all conditions of the preliminary approval (other than receiving required local, state or federal permits if eventually approved and if not available solely because of the inaction of the government agency and not because the applicant has failed to use best efforts to obtain such approval or permit).~~
- ~~B. A person who has met the requirements of Section 8-3.04.A above, before the effective date of the Forest Conservation Regulations, is not required to file a Forest Conservation Plan with a subsequent application for sediment or grading plan approval for the tract to be developed according to the final plat or equivalent approval.~~

8-3.054 Administration

A. Application

Except as provided in Section 8-3.02 ~~above~~, this Ordinance applies to:

1. A person making application for a subdivision, project plan, grading, or sediment control approval ~~on units of land 40,000 square feet or greater after the effective date of this Ordinance.~~
2. A public utility not exempt under Section 8-3.02 ~~above~~.
3. A unit of County government including a public utility or public works project, making application for a subdivision, site plan, project plan, grading, or sediment control approval ~~on areas 40,000 square feet or greater.~~

B. General Requirements

A person, ~~not exempt under Section 8-3.02 and~~ making application ~~after the effective date, as defined in Section 8-3.04 of this Ordinance,~~ for subdivision, site plan or local agency project plan approval, a grading permit, or a sediment control permit ~~for an area of land of 40,000 square feet or greater~~ shall:

(10/5/93)

1. Submit to the Department of Planning and Zoning a Forest Stand Delineation and a Forest Conservation Plan for the lot or parcel on which the development is located; and

(10/5/93)

2. Use methods provided in the Calvert County Maryland Forest Conservation Technical Manual (~~Section 3.5~~) to protect retained forests and trees during construction.

(10/5/93)

3. If a person or (~~which includes a~~ local agency) using State funds makes application to conduct a regulated activity, the provisions of the State Forest Conservation Program ~~may~~ shall apply as determined by the State. ~~If the State determines that the State Forest Conservation Program does not apply, then the County Forest Conservation Program does apply.~~

(9/30/03)

4. The requirements of the Forest Conservation Program shall be met for the total subdivision and open space created or for each lot separately.

(9/30/03)

5. ~~If it is proposed~~ If the applicant proposes to meet the forest conservation requirements on other than a lot-by-lot basis then the location and area (square feet) cleared on the lots and location and area (square feet) of any designated retention area on the lots shall be recorded with the lots. A note shall also be recorded with the residue charging the residue with the area cleared on the lots and crediting the residue with the forest area (square feet) retained.

(9/30/03)

6. Retention, afforestation and reforestation areas on the lots shall be ~~noted~~ identified on the final subdivision plat as forested areas that will be left undisturbed in perpetuity and to serve for water quality benefits.

Moved from Section 8-3.05.Q.7.b.iv-vi

C. Forest Stand Delineation

1. A Forest Stand Delineation shall be submitted to the Department of Planning and Zoning at the initial stages of subdivision or project plan approval, before a grading permit application, or before a sediment control application is submitted for the tract being developed.

(10/5/93)

2. The delineation (~~except for a simplified forest stand delineation~~) shall be prepared by a licensed forester, licensed landscape architect, or a qualified professional who meets the requirements stated in Section 8-3.054.RI of this Ordinance.

3. The delineation shall be used during the preliminary review process to determine the most suitable and practical areas for forest conservation. ~~and shall contain the following components:~~

- (10/5/93) **4. A concept plan (survey not required) of the subdivision must be submitted which shows the potential location and area of the open space, lots, roads, and forest retention areas.**
- (10/5/93) **5. a-** Standard Forest Stand Delineation **shall contain the following components:**
- a. i-** A topographic map delineating intermittent and perennial streams, and steep slopes over 25 percent;
 - b. ii-** A soils map delineating soils with structural limitations, hydric soils, or soils with a soil K value greater than 0.35 on slopes of 15 percent or more;
 - c. iii-** Forest stand maps indicating species, location, and size of trees and showing dominant and codominant forest types;
 - d. iv-** Location of 100-year floodplains;
 - e. v-** ~~Information required by the Forest Conservation Manual (Chapter 2);~~ **Rare, threatened and endangered species as identified by the Department of Natural Resources; and**
 - f. vi-** **Non-tidal wetlands and their Buffers; and**
 - g. vii-** Other information the County determines is necessary to implement this Ordinance.
- (10/5/93) **6. b-** Simplified Forest Stand Delineation **shall contain the following components:**
- a. i-** A map showing the existing forest cover, ~~designated critical habitat,~~ designated **rare, threatened, and endangered species habitat,** trees associated with designated historic structures, champion trees as verified by field inspection by the preparer; and
 - b. ii-** Data on the area of forest on the site, total area of the parcel or lot and the information required by Sections 8-3.054.C.3.4.a, **b, d, and e.i, ii iv.**
- (10/5/93) **4. Simplified Forest Stand delineations are permitted in the following situations:** ~~If less than 40,000 square feet of forest cover is proposed to be disturbed during subdivision of land or a development activity and the forested area is designated to be under a long term protective agreement, the County shall accept a simplified Forest Stand Delineation concurrent with preliminary subdivision submittal, preliminary site plan or plot plan submittal, or grading permit submittal. In addition, for minor subdivisions in which no priority retention areas are disturbed except for a single unavoidable crossing, the County shall accept a simplified forest stand delineation.~~
- 7. a. For minor subdivisions in which no priority retention areas (as specified in Section 8-3.04 H.) are disturbed except for a single unavoidable crossing.**

(10/5/93)

5. **b.** For County roads, ~~the County shall accept a simplified Forest Stand Delineation~~ concurrent with the road grading plan and Forest Conservation Plan submittal.

(10/5/93)

6. ~~For retention areas located in the 100-year floodplain, wetlands or wetlands buffers, or conservation areas (as per Section 7-1.07.C.2 of the Calvert County Subdivision Regulations) will require a simplified forest stand delineation.~~

Moved from Section 8-3.02.N

c. For cluster subdivisions in which **that meet all of the following criteria:**

i. no afforestation or reforestation is necessary,

ii. over 50 percent of the parcel is maintained in designated open space,

iii. **no priority retention areas (as specified in Section 8-3.04 H.) are disturbed except for a single unavoidable crossing** all forested priority retention areas ~~as designated by intermittent and perennial streams and their buffers~~

~~conservation areas as defined by the Subdivision Regulations (Section 7-1.07.C.2) and approved by the Planning Commission, and~~

~~non-tidal wetlands and their buffers are retained in forest except for unavoidable crossings for road or single driveway (not multiple driveways) access and designated critical habitat~~

iv. a minimum of 20 percent of the forest cover onsite ~~must be~~ **is** retained.

Moved from Section 8-3.05.Q.7.c.

d. For site plans on commercial or industrial zoned land, subject to the following provisions:

i. Retention, afforestation and reforestation areas on site plans that include wetlands, wetland Buffers, streams, stream buffers, and floodplains shall be noted on the final site plan as forested areas that will be left undisturbed in perpetuity and to serve for water quality benefits. Other retention areas on the site may be developed through additional site plans but the calculated area cleared (square feet) on the site will include all areas (square feet) previously cleared since January 1, 1993.

(9/30/03)

Definition moved to Article 12

ii. For certain projects, where development of a site will occur in phases, forest conservation requirements may be met for the current phase only. ~~"Phased Development" is defined as commercial (non-residential) development of a recorded lot or parcel in Town Center, Employment Center/Town Center, Light Industrial, Marine Commercial, or Rural Commercial Zoning in which one specified area of the site is developed before other areas.~~

Phased Development could also occur in Rural zoning for institutional use only. Each phase of development shall be shown on a site development plan. Forest Conservation Program requirements may be addressed one phase at a time. The square foot exemption (Section- 8-3.02.H of the Zoning Ordinance) does not apply to phases.

Moved from Section 8-3.05.Q.7.b.

- e.** For subdivisions in areas with commercial or industrial zoning (TC ~~including ETC~~, I-1, MC, RC), where less than the allowable number of lots are proposed at the time of subdivision final approval:
 - i. The simplified forest stand delineation shall be conducted on any of the lots created and for the remainder of the parcel.
 - ii. A note shall be recorded with both the lot and residue that the provisions of the Forest Conservation Program apply except that the square feet exemptions (Section 8-3.02.H of the Zoning Ordinance) do not apply.
 - iii. The requirements of the Forest Conservation Program shall be met over all the lots created or for each lot separately. If it is proposed to meet the forest conservation requirements on other than a lot-by-lot basis then the location and area (square feet) cleared on the lots and location and area (square feet) of any designated retention area on the lots shall be recorded with the lots. A note shall also be recorded with the residue charging the residue with the area cleared on the lots and crediting the residue with the forest area (square feet) retained.
 - iv. Retention, afforestation and reforestation areas on the lots that include wetlands, wetland Buffers, streams, stream Buffers, and floodplains shall be noted on the final subdivision plat as forested areas that will be left undisturbed in perpetuity and to serve for water quality benefits.

(10/5/93)

~~7. Subdivisions and site plans that have been submitted prior to January 1, 1993 but are not exempt from the Program shall be required to submit a simplified forest stand delineation on a preliminary or revised preliminary plan which also includes a Forest Conservation Plan.~~

(10/5/93)

8- 7. An approved Forest Stand Delineation **or Simplified Forest Stand Delineation** may remain in effect for a period not longer than five years prior to preliminary approval.

(10/5/93)

9- 8. Time for Submittal.

- a. Within 30 calendar days after receipt of the Forest Stand Delineation, the County shall notify the applicant whether the Forest Stand Delineation is complete and correct.

- b. If the County fails to notify the applicant within 30 days, the delineation shall be treated as complete and correct.
- c. The County may require further information or provide for an additional 15 calendar days under extenuating circumstances.

D. Forest Conservation Plan

(10/5/93)

1. Any **project for which a Forest Stand Delineation or Simplified Forest Stand Delineation is required must also submit a Forest Conservation Plan.** ~~subdivision or site plan submitted prior to January 1, 1993 and not exempt from the Program, shall not be required to redesign the layout of the plan but must otherwise meet all the requirements of the Forest Conservation Plan. However, redesign of such plans to cluster development and conserve forest is encouraged.~~
2. In developing a Forest Conservation Plan, the applicant shall give priority to 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 and Zoning:
 - a. How techniques for forest retention have been exhausted;
 - b. Why the priority forests and priority areas specified in Section 8-3.054.H ~~of this Ordinance and Section 3.4.3 of the CCFCM,~~ cannot be left in an undisturbed condition;
 - c. If priority forests and priority areas cannot be left undisturbed, how the ~~sequence for~~ afforestation or reforestation will be ~~followed in~~ **accomplished.** ~~compliance with Section 8-3.05.G, I and J of this Ordinance and Section 3.6 of the CCFCM; and~~
 - d. Where ~~on the site in priority areas,~~ afforestation or reforestation will occur **in priority areas** in compliance with the Calvert County Forest Conservation Program.
4. The applicant shall demonstrate to the satisfaction of the County that the requirements for afforestation or reforestation onsite or off-site cannot be reasonably accomplished, if the applicant proposes to make a payment into the local forest conservation fund instead of afforestation or reforestation.
5. ~~Nontidal Wetlands. A regulated activity within the net tract area that occurs wholly or partly in areas regulated as nontidal wetlands under Natural Resources Article, Sec. 8-1201-1211, Annotated Code of Maryland, and COMAR 08.05.04 is subject to both the nontidal wetlands regulatory requirements and the requirements of this Ordinance is subject to the following requirements:~~
 - 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 subtitle.~~

- ~~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 Federal, State or County regulations 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.~~

E. Preliminary Forest Conservation Plan

1. A preliminary Forest Conservation Plan shall be prepared by a licensed forester, a licensed landscape architect, **licensed surveyor**, or a qualified professional who meets the requirements stated in Section 8-3.0**54.RI** of this Ordinance.
2. A preliminary Forest Conservation Plan shall:
 - a. Be submitted with the preliminary plan of subdivision or proposed project plan;
 - b. Include the approved Forest Stand Delineation **or Simplified Forest Stand Delineation** for the site;
 - c. Include a table that lists the proposed values of the following, in square feet:
 - i. Net tract area,
 - ii. Area of forest conservation required, and
 - iii. Area of forest conservation that the applicant proposes to provide, including both onsite 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 is proposed;
 - e. Include an explanation of how the provisions of Section 8-3.0**54.D** 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;

(10/5/93)

- 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; and
- k. Information required in the Calvert County Maryland Forest Conservation Technical Manual (~~Chapter 3~~).

- ~~3. The review of the preliminary Forest Conservation Plan shall be concurrent with the review of the preliminary site plan.~~
- ~~4. During the different stages of the review process, the preliminary Forest Conservation Plan may be modified.~~

F. Final Forest Conservation Plan.

- 1. A final Forest Conservation Plan shall be prepared by a licensed forester, a licensed landscape architect, licensed surveyor, or a qualified professional who meets the requirements stated in Section 8-3.054.RT of this Ordinance.

- 2. A final Forest Conservation Plan shall:

- a. Be submitted with the following:
 - i. A final subdivision plan or site plan,
 - ii. A final project plan,
 - iii. An application for a grading permit, or
 - iv. An application for a sediment control permit;
- 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 8-3.05.4.PQ of this Ordinance that details how the areas designated for afforestation or reforestation will be maintained to ensure protection and satisfactory establishment, including:
 - i. Watering, and
 - ii. A reinforcement planting provision (~~Section 3-6.3.F.7~~) if survival rates fall below required standards (~~Section 3-6.2.D~~), as provided in the Calvert County Maryland Forest Conservation Technical Manual;

(10/5/93)

- e. Include recorded plats that serve as long-term binding protective agreements. ~~Incorporate a long-term binding protective agreement as specified in Section 8-3.05.Q of this Ordinance:~~
 - ~~i. Provides protection for areas of forest conservation, including areas of afforestation, reforestation, and retention, and~~

~~ii. Limits uses in areas of forest conservation to those uses that are designated and consistent with forest conservation, including recreational activities and forest management practices that are used to preserve forest; and~~

f. Include the ~~substantive~~ elements required under Sections 8-3.054.E.2.b-e, g-i and k of this Ordinance, as finalized elements of the Forest Conservation Plan.

3. Time for submittal

a. Within ~~45~~ 60 calendar days after receipt of the final Forest Conservation Plan, the County shall notify the applicant whether the Forest Conservation Plan is complete and approved.

b. If the County fails to notify the applicant within 45 calendar days, the plan shall be treated as complete and approved.

c. The County 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 County may extend the deadline under extenuating circumstances.

4. The County's review of a final Forest Conservation Plan shall be concurrent with the review of the final subdivision or project plan, grading permit application, or sediment control application associated with the project.

5. The County may revoke an approved Forest Conservation Plan if it finds that:

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; or

c. Changes in the development or in the condition of the site necessitate preparation of a new or amended plan.

6. A person who fails to comply with an approved Forest Conservation Plan or maintenance agreement is in violation of the Ordinance.

G. Afforestation Requirement.

A person making application ~~after the effective date of this Ordinance~~ for subdivision, site plan, or project plan approval, a grading permit, or a sediment control permit ~~for an area of land of 40,000 square feet or greater~~, unless exempt under Section 8-3.02 ~~or 8-3.04~~ of this Ordinance, shall:

1. Conduct afforestation on the lot or parcel in accordance with Table 8-3.054.G.1.

(10/5/93)

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.

(10/5/93)

Table 8-3.054.G.1 Afforestation Thresholds	
Zoning District	Afforestation Theshold
RUR (FCD , RPD & RCD RUC), WL	20 percent
Institutional in RUR FCD , RPD , and RCD	15 percent
R-1 & R-2	15 percent
TC	15 percent
RC, MC, I-1	15 percent

(Where ~~FCD~~, ~~RPD~~ & ~~RUC~~ ~~RCD~~ equal Farm Community, Resource Preservation and Rural Community Overlay Zones, respectively.)

2. Comply with the following when cutting into forest cover that is currently below the afforestation percentages described in Table 8-3.054.G.1:
 - a. The required afforestation level shall be determined by the amount of forest existing before cutting or clearing begins; and
 - b. Forest cut or cleared below the required afforestation level shall be reforested or afforested at a two-to-one (2:1) 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.

H. Retention Requirement

(10/5/93)

1. 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 County that reasonable efforts have been made to protect them and the plan cannot be reasonably altered:

- a. Trees, shrubs, and plants located in sensitive areas including the 100-year floodplain, intermittent and perennial streams and their Buffers, steep slopes, nontidal wetlands, and ~~critical~~ habitats for rare, threatened, and endangered species;
- b. Contiguous forest that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site;

- c. Trees, shrubs, or plants determined to be rare, threatened, or endangered under:
 - i. The federal Endangered Species Act of 1973 in 16 U.S.C. §§1531--1544 and in 50 CFR Part 17,
 - ii. The Maryland Nongame and Endangered Species Conservation Act, Natural Resources Article, §§10-2A-01--10-2A-09, Annotated Code of Maryland, and
 - iii. COMAR 08.03.08;
- d. Trees that:
 - i. Are part of a **designated** historic site,
 - ii. Are associated with a **designated** historic structure, or
 - iii. Have been designated by the State or the County as a national, State, or County champion tree; and
- e. Any tree having a diameter measured at four-and-a-half feet above the ground of:
 - i. 30 inches or more; or
 - ii. 75 percent or more of the diameter, measured at four-and-a-half feet above the ground, of the current State champion tree of that species as designated by the Department of Natural Resources (CCFCM, Appendix M) **and as determined in a standard Forest Stand Delineation.**

(10/5/93)

2. Location of **Forest** Retention Areas

All retention areas located on land zoned ~~Rural~~ **FCD, RPD, and RCD should shall** be placed outside of the lot areas ~~whenever possible~~. In the Resource Preservation Rural Overlay Zone, all retention areas shall be located outside of the lot areas. When the forest retention areas are allowed and proposed within the lot lines, the retention area shall have a minimum depth of 75 feet and be located behind the rear Building Restriction Line (BRL). The BRL's may not extend into the retention areas. Allowed exceptions would be:

- a. The area is not behind the rear BRL but is a priority area for retention as designated in Section 8-3.0**54**.H.1.a, c-e, or
- b. The area is part of a required Buffer from adjacent properties and rights-of-way and is greater than 75 feet in width.

I. Reforestation - Forest Conservation Threshold

- 1. There is a forest conservation threshold established for all zoning districts, as provided in Table 8-3.0**54**.I.2. The forest 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 each acre removed above the threshold to a ratio of two acres planted for each acre removed below the threshold.

2. After reasonable efforts to minimize the cutting or clearing of trees and other woody plants have been exhausted in the development of a subdivision or project plan, grading and sediment control activities, and implementation of the Forest Conservation Plan, the Forest Conservation Plan shall provide for reforestation, or payment into the forest conservation fund, according to the formula set forth in Sections 8-3.054.I.2&3 and consistent with Section 8-3.054.D of this Ordinance and the following forest conservation thresholds for the applicable zoning districts:

(10/5/93)

Table 8-3.054.I.2 Conservation Thresholds	
Zoning District	Conservation Theshold
RUR -(FC <u>D</u> & RP <u>D</u>), WL	50 percent
RUR -(RUC)- RCD	25 <u>30</u> percent
Institutional in RUR - FC <u>D</u> , RP <u>D</u> , and RCD	20 percent
R-1 & R-2	20 percent
TC	15 percent
RC, MC, I-1	15 percent
(Where FC <u>D</u> , RP <u>D</u> & RUC <u>RCD</u> equal Farm Community, Resource Preservation and Rural Community Overlay Zones, respectively.)	

3. Calculations
- a. For all existing forest cover measured to the nearest one-tenth 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 one-quarter acre planted for each acre removed.
 - b. 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. The calculation of the credit shall be according to the criteria provided in the ~~Galvert County~~ Maryland Forest Conservation Technical Manual (~~Section 3.2~~).
 - c. For all existing forest cover measured to the nearest one-tenth 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 and at a ratio of one-quarter acre planted for each acre removed above the threshold.

(10/5/93)

- J. Priorities, ~~Time Requirements~~ and Sequence for ~~Afforestation and Reforestation~~ Mitigation
1. After techniques for retaining existing forest on the site have been exhausted, the preferred sequence for afforestation and reforestation, is as follows:
 - a. Selective clearing and supplemental planting on site and managed natural regeneration;
 - b. Onsite afforestation or reforestation, if economically feasible, using transplanted or nursery stock that is greater than one-and-a-half inches diameter measured at four-and-a-half feet above the ground;
 - c. Onsite afforestation or reforestation, using whip and seedling stock;
 - d. Off-site afforestation or reforestation, using transplanted or nursery stock that is greater than one-and-a-half inches diameter measured at four-and-a-half feet above the ground;
 - e. Off-site afforestation or reforestation, using whip and seedling stock;
 - f. ~~Natural regeneration onsite~~ Purchase of Forest Conservation Transferable Development Rights (See Section 8-3.04.K);
 - g. Natural regeneration of native vegetation off-site; and
 - h. Landscaping of commercial on site areas under an approved landscaping plan which establishes a forest that is at least 35 feet wide and covering 2,500 square feet or more of area.
 - i. payment into the Forest Conservation Fees-in-lieu Fund in accordance with Section 8-4.05.L.
 2. A mitigation sequence other than the one described in Section 8-3.054.J.1 of this Ordinance may be used for a specific project, if approved by County Environmental Planning staff and if necessary to achieve the objectives of the County Comprehensive 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 use of a higher priority level technique. Written justification must be submitted in support of use of a lower priority and such discussion must address why the higher priority options were not selected.
 3. The following are considered a priority for afforestation and reforestation:
 - a. Establish or enhance forest Buffers adjacent to intermittent and perennial streams to widths of at least 50 feet;
 - b. Establish or enhance non-forested areas on 100-year floodplains, when appropriate;

- c. 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;
 - d. Establish or enhance forest Buffers adjacent to critical habitats where appropriate;
 - e. Establish plantings to stabilize slopes of 25 percent or greater and slopes of 15 percent or greater with a soil K value greater than 0.35 including the slopes of ravines or other natural depressions;
 - f. Establish Buffers adjacent to areas of differing land use when appropriate, or adjacent to highways or utility rights-of-way;
 - g. Establish forest areas adjacent to existing forests to increase the overall area of contiguous forest cover, when appropriate; and
 - h. Use native plant materials for afforestation or reforestation, ~~when appropriate.~~
4. A person required to conduct afforestation or reforestation under this article shall accomplish it within one year or two growing seasons, whichever is a greater time period, following development project completion.
5. Mitigation banking of forest will be allowed and used under the following provisions:
- a. An application to propose a site for forest mitigation must be submitted to the Department of Planning and Zoning which includes a survey of the area to be forested, the total acres to be reforested, the tax identification number of the parcel, the tax map, parcel and lot number, and the method of reforestation proposed. A replanting plan must be submitted by an approved qualified professional as described in Section 8-3.054.R.
 - b. The area of reforestation must be one acre or greater or greater than one-half acre if it meets the criteria given in Section 8-~~73.054~~J.3.a,b,d, or e.
 - c. An inspection will be made of the site by the Department of Planning and Zoning to confirm that the proposed area is not currently in forest and that the proposed method of reforestation is appropriate. The Department of Planning and Zoning may consult with the department of natural resources concerning the proposed reforestation.
 - d. A current list of proposed mitigation banking sites will be kept in the Department of Planning and Zoning.

(10/5/93)

- e. For a development to use a mitigation site to meet its reforestation requirement, the mitigation site must have a higher priority rating for reforestation as given in Section 8-3.054.J.3 than possible on-site reforestation sites and must fit within the preferred sequence for reforestation given in Section 8-3.054.J.1.
- f. In order for a proposed mitigation site to be used to meet any reforestation requirement, the mitigation site must meet the definition of reforestation.
- g. Prior to approval of any development plan that uses a mitigation banking site to meet its reforestation requirements, a note must be recorded in the land records for the parcel on which the mitigation forest has been established indicating that the entire proposed reforestation area will remain in forest in perpetuity. Forest harvest within these areas will be allowed.
- h. Once a portion of the mitigation area is used to meet a reforestation requirement the rest of the mitigation area can not be withdrawn from being a mitigation site. Prior to the mitigation site being recorded as a permanent forest retention area, the proposed mitigation site may be withdrawn by written request to the Department of Planning and Zoning. Mitigation sites thus withdrawn will be considered forested relative to future development.
- i. 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 and Zoning will also keep a record of the transaction.

K. Purchase of Forest Conservation Transferable Development Rights (FCTDRs). FCTDRs pertain to a portion of an APD that is forested.

- 1. If afforestation and reforestation aren't 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. 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.**
- 3. A plat must be recorded in the land records outlining the location where the Forest Retention Area is located on the APD.**

4. 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.

K L. Fees-In-Lieu of Afforestation and Reforestation – Calvert County Forest Conservation Fund.

(05/25/04)

1. A Calvert County Forest Conservation Fund is established to received fees-in-lieu funds and fines and will be administered through the Department of Planning and Zoning.
2. If a person subject to this Ordinance demonstrates in writing to the satisfaction of the County that requirements for reforestation or afforestation onsite or off-site cannot be reasonably accomplished, **and that FCTDRs are not available for purchase,** the person shall contribute money, at a rate established by resolution by the Board of County Commissioners, into the County Forest Conservation Fund.
3. Money contributed in-lieu-of afforestation or reforestation under this article shall be paid prior to receiving an Occupancy Permit for those projects that require an Occupancy Permit. For grading exemptions and grading permits not accompanying a site plan or plot plan or other projects not requiring an occupancy permit, the fees-in lieu will be paid prior to receiving any permits.
4. The County shall accomplish the reforestation or afforestation for which the money is deposited.
5. Money contributed **to this fund will be used exclusively for replanting programs.** ~~under this article may remain in the account for a period of one year beyond the end of the fiscal year in which it was contributed. At the end of that time, any part that has not been used or encumbered to meet the afforestation or reforestation requirements shall be returned to the persons who contributed the money provided that the fund contains sufficient monies to print and distribute checks equal to or greater than \$10.00 per contributor for the year in which funds were collected.~~
6. Money deposited in the County forest conservation fees-in-lieu fund under this Section:
 - a. May be spent on the costs directly related to reforestation and afforestation, including, **personnel,** site identification, acquisition, and preparation;
 - b. Shall be deposited in a separate forest conservation fund;
 - c. ~~May only be used for Program implementation if 100 percent of the forest lost on sites regulated by the Calvert County Forest Conservation Program is being replaced; and~~
 - d.c.** May not revert to the general fund.

7. Sites for Afforestation or Reforestation Using Fund Money.
 - a. Except as provided in Section 8-3.054.KL.6.b, below, the reforestation or afforestation requirement shall occur in the County and within the watershed in which the project is located.
 - b. If the reforestation or afforestation cannot be reasonably accomplished in the 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.

L. M. Recommended Tree Species

Tree species used for afforestation or reforestation shall be native **species to the County, when appropriate,** and selected from a list of approved species **given in the CCFCM, Appendix F maintained in the Department of Planning and Zoning.**

(10/5/93)

M. N. Financial Security for Afforestation and Reforestation - Bonding

1. A person required to conduct afforestation or reforestation under this article shall furnish financial security in the form of a surety bond, an irrevocable letter of credit, or cash bond. The surety shall:
 - a. Assure that the afforestation, reforestation, and the associated maintenance agreement are conducted and maintained in accordance with the approved Forest Conservation Plan;
 - b. Be in an amount **of \$0.10 multiplied by 1.25 equals \$0.125 per square foot; adopted by the Board of County Commissioners.**
 - c. Be submitted along with a completed Forest Conservation Bond Form **(CCFCM, Appendix P.1);**
 - d. Meet all provisions of Section 8-3.054.PQ.2.
2. The County shall determine whether a lesser amount is sufficient to cover the cost of afforestation or reforestation, taking into account the following:
 - a. The number of acres,
 - b. The proposed method of afforestation or reforestation,
 - c. The cost of planting materials or replacement materials,
 - d. The cost of maintenance of the afforestation or reforestation project, and
 - e. Other relevant factors.

(10/5/93)

3. If, after two growing seasons, the survival of plantings associated with the afforestation or reforestation meet or exceed the standards of the **Calvert County Maryland Forest Conservation Technical Manual (Section 3.6.2.D),** the amount of the cash bond, letter of credit, surety bond, or other security shall be returned or released.

(10/5/93)

4. If, after two growing seasons, the survival of plantings associated with the afforestation or reforestation is less than the standards of the ~~Calvert County Maryland~~ Forest Conservation **Technical Manual (Section 3.6.2.D)**, then the percentage difference between 100 percent and the percent survival shall be bonded at \$0.125 per square foot. The difference between the existing bond and the replanting bond shall be returned to the applicant if a cash bond has been posted. Letters of credit and surety bonds, or other security can be released if replaced with the same for the adjusted amount.

N O. Standards for Protecting Trees from Construction Activities

(10/5/93)

1. The County's standards for the protection of trees from construction activity are given in Section 3.54 of the ~~Calvert County Maryland~~ Forest Conservation **Technical Manual**.
- ~~2. Subdivisions on Rural zoned land may opt to be exempt from the temporary protection requirements of Section 3.5 of the Calvert County Forest Conservation Manual except that the retention area will be required to be flagged (spacing between flags shall be no greater than 10 feet, a ribbon can also be used) and posted with signage (as in CCFCM, Appendix J, Page J-9) and no disturbance will be allowed in the retention area.~~
3. Before cutting, clearing, grading, or construction begins on a site for which a Forest Conservation Plan is required by this article, **2.** the applicant shall demonstrate to the County that protective devices have been established.

O P. Penalties and Enforcement

(10/5/93)

1. Noncompliance Fees
 - a. A person found to be in noncompliance with Section 8-3 of this Ordinance, the Forest Conservation Plan, or the associated two-year Maintenance Agreement, shall be assessed by the County the penalty of 30 cents per square foot of the area found to be in noncompliance with required forest conservation.
 - b. Money collected under Section 8-3.054.0.4.L. a of this Ordinance shall be deposited in the Calvert County Forest Conservation Fund, and may be used by the County for purposes related to implementing this Ordinance.
2. Violation
 - a. In addition to the provisions under Section 8-3.054.OP.1 of this Ordinance, a person who violates a provision of this Ordinance or a regulation or order adopted or issued under this Ordinance is liable for a penalty ~~not to exceed \$1,000, which may be recovered in a civil action brought by the County.~~ **set by the Board of County Commissioners.**
 - b. Each day a violation continues is a separate violation.

3. The County may seek an injunction requiring the person to cease violation of this Ordinance and take corrective action to restore or reforest an area.
4. Complaints and Orders
 - a. The County may serve a written complaint ~~on~~ **to** an alleged violator if the County determines that there has been a violation of:
 - i. A provision of the Forest Conservation Act;
 - ii. A regulation of the Calvert County Forest Conservation Program;
 - iii. A Forest Stand Delineation or Forest Conservation Plan; or
 - iv. An administrative order.
 - b. The complaint shall:
 - i. Identify the violator and the location of the violation;
 - ii. State the provision violated;
 - iii. State the specific facts on which the complaint is based; and
 - c. Corrective Action
 - i. At any time, including during an enforcement action, the County may issue an administrative order requiring the violator to take corrective action within a certain time period.
 - ii. The corrective action may include an order to:
 - (a) Stop the violation;
 - (b) Stabilize the site;
 - (c) Stop all construction work at the site of a regulated activity;
 - (d) Restore or rectify unlawfully cleared areas; or
 - (e) Submit a written report or plan concerning the violation.
 - d. Service
 - i. A complaint, order, or other administrative notice issued by the County shall be served **in a manner as described in Section 1-7:**
 - ~~(a) On the violator personally;~~
 - ~~(b) On the violator's agent at the activity site; or~~
 - ~~(c) By certified mail to the violator's last known address.~~
 - ii. An order issued under this regulation is effective immediately, according to its terms, when it is served.

5. ~~Plan~~ Grading Permit Suspension and Revocation.

The County may suspend or revoke a ~~plan~~ grading permit after notice to the violator if the County determines that one or more of the following has occurred:

- a. Failure of a violator to post a bond required under Section 8-3.054.P.2;
- b. 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;
- c. Misrepresentation in the application process or failure to disclose a relevant or material fact;
- d. Violation of a Forest Conservation Plan requirement;
- e. Substantial deviation from the conditions, specifications, or requirements of a plan;

6. Notice

Except as provided under Section 8-3.054.OP.8 of this Ordinance, the County may not suspend or revoke a Forest Conservation Plan unless the County first gives the violator written notice by certified mail of the specific facts that warrant suspension or revocation.

7. Contested Case Hearings

- a. On receipt of written notice to suspend or revoke a Forest Conservation Plan, the violator has 10 calendar days to request a contested case hearing;
- b. A hearing under this regulation shall be conducted in conformance with State Government Article, §§10-201--10-217, Annotated Code of Maryland.
- c. If the County does not receive a request for a hearing, the Forest Conservation Plan shall be suspended or revoked.

8. Emergency Action

- a. The County may order the immediate suspension of a Forest Conservation Plan if the County finds that the public health, safety, or welfare imperatively requires the emergency suspension.
- b. The County shall promptly give the violator written notice that the emergency action has been taken.
- c. A notice of emergency action shall include a statement of specific facts on which the emergency suspension is based.

(10/5/93)

P. Q. Forest Conservation Maintenance and Management Agreements - Short Term Protective Agreements

1. Maintenance Agreements

(10/5/93)

a. Application. A person required to conduct afforestation or reforestation under ~~Section 8-3—the County Forest Conservation Program~~ shall include in the Forest Conservation Plan a binding maintenance agreement for the length of two years, as specified in the ~~Calvert County Maryland~~ Forest Conservation **Technical** Manual.

b. Approval procedures and timing shall be consistent with the procedures provided in Section 8-3.054.E of this Ordinance.

(10/5/93)

c. 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 ~~Section 3.6 of the Calvert County Maryland~~ Forest Conservation **Technical** Manual.

d. 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:

i. An executed deed conveying title to a selected site to the principal;

ii. An executed conservation easement agreement;

iii. Written evidence of the landowner's consent to the use of a selected site;

iv. A fully executed option agreement, long-term lease agreement, or contract of sale for a selected site; or

v. Other written evidence of a possessory or ownership interest in a selected site.

e. The County shall be a signatory to the maintenance agreement, or shall be designated a third-party beneficiary of the agreement.

f. The County 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.

g. The maintenance agreement shall provide for access by the County to the afforestation or reforestation site.

2. Bonding

a. Application

- i. A person required to conduct afforestation or reforestation, or to deposit money into a designated State or local fund under the State or Local Forest Conservation Program shall include a bond or other financial security as an element of a Forest Conservation Plan.
- ii. This Section does not apply to agencies of any Federal, State, County or Municipal government.

b. Requirements

A financial security shall be furnished in the form of:

- i. A bond which shall be made payable to the County,
- ii. An irrevocable letter of credit which shall:
 - (a) Be equivalent to the required bond,
 - (b) Be issued by a financial institution authorized to do business in Maryland,
 - (c) Expressly state that the total sum is guaranteed to be available and payable directly to Calvert County on demand in the event of forfeiture, and
 - (d) Be in force until all mitigation for reforestation and afforestation and monitoring requirements have been fulfilled to the satisfaction of the County or until all contributions have been made to the state or local fund; or
- iii. Other security approved by the County.

c. The financial security shall:

- i. Ensure that:
 - (a) The afforestation, reforestation and associated maintenance agreement are conducted and maintained in accordance with the approved Forest Conservation Plan, or
 - (b) Contributions have been made to the state or local fund;
- ii. Be in the amount equal to the estimated cost of afforestation and reforestation, or the amount of the contribution due, as determined by the County;
- iii. Be in a form and content approved by the County.

d. The value of the financial security:

- i. Shall be based on:
 - (a) The cost to perform all work required by the afforestation or reforestation plan if the work had to be performed by or contracted out by the County, or

- (b) When appropriate, the amount due for a fund contribution;
- (10/5/93)
 - ii. May be adjusted according to the actual cost of mitigation for afforestation and reforestation or, if the cost of future mitigation work changes, the County shall notify the principal of a proposed adjustment and provide an opportunity for an informal conference on the adjustment; and
- (10/5/93)
 - iii. May be reduced if the principal proves to the County that the costs to complete the mitigation project have been reduced.
- e. A surety bond or other alternative form of security may not be canceled by the surety, bank, or other issuing entity unless both of the following conditions are satisfied:
 - i. The surety notifies the County and the principal of its intent to cancel the bond, in writing, by registered mail, not less than 90 days before cancellation; and
 - ii. At least 45 days before the cancellation date indicated in the notice, the principal files a commitment from a surety, bank, or other issuing entity to provide a substitute security which will be effective on the cancellation date indicated in the notice.
- (10/5/93)
 - f. If, after two years the plantings associated with the afforestation or reforestation meet or exceed the standards of the ~~Calvert County Maryland~~ Forest Conservation Technical Manual. (~~Section 3.6.2.D~~), the remaining amount of the cash bond, letter of credit, surety bond, or other security shall be returned or released.
- g. Bond Release
 - i. The bond shall be released on receipt of written notice from the Department of Planning and Zoning stating that all afforestation or reforestation requirements have been met.
 - ii. The written notice shall be sent at the end of the required two-year monitoring and management period, as provided in the maintenance agreement.
 - iii. If the Department of Planning and Zoning fails to send written notice within 60 days after the end of the monitoring and management period, the bond shall be automatically released.
- (10/5/93)
 - h. Financial Security Forfeiture.
 - i. The bond or other financial security may be subject to forfeiture if the principal fails to comply with:
 - (a) Revocation of the Forest Conservation Plan;
 - (b) An administrative order; or

- ii. The County shall notify the principal, by certified mail, of the intention of the County to initiate forfeiture proceedings.
- iii. The principal has 30 days from receipt of the notice of forfeiture to show cause why the bond or other financial security may not be forfeited.
- iv. If the principal fails to show cause, the bond or other financial security shall be forfeited.

Q. R. Forest Conservation Maintenance and Management Agreements - Long-Term Protective Agreements

1. An applicant under the State or County Forest Conservation Program shall have in effect at all times a long-term protective agreement ~~as provided for in Section 8-3.05.Q of this Ordinance~~ to preserve and protect areas retained, afforested, or reforested.
2. Approved Forest Management Plan
 - a. Procedure for Approval.
 - i. An application for approval of a forest management plan shall include all information required in the ~~Calvert County Maryland~~ **Maryland Forest Conservation Technical Manual** ~~(Section 3.5.3.C.4) and in Appendix F therein.~~
 - b. The forest management plan shall be:
 - i. Legally binding from the date of approval;
 - ii. Prepared by a licensed professional forester;
 - iii. Submitted to the DNR forester assigned to the County where the property is located; and
 - iv. May be amended periodically, ~~as provided for in Section 8-3.05.Q.3 of this Ordinance.~~
 - c. The DNR forester shall review the plan to ensure that it is complete and consistent with the **Maryland Forest Conservation Technical Manual** ~~State or Local Forest Conservation Program.~~
 - d. DNR shall notify the applicant **and County as to** whether the Forest Management Plan has been approved.
 3. 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 DNR forester assigned to the County where the property is located;

(10/5/93)

(10/5/93)

- d. The forester shall review the amendment to ensure that it is complete and consistent with the Maryland Forest Conservation Technical Manual State or Local Forest Conservation Program.
- e. DNR shall notify the applicant as to whether the amendment has been approved; and
- f. The applicant shall sign the amendment.

~~4. Forest Conservation and Management Agreement~~

~~An applicant may satisfy the requirement for long-term protection by executing a Forest Conservation and Management Agreement, as provided in Tax-Property Article, §8-211, Annotated Code of Maryland, COMAR 08.07.03 and CCFCM, Appendix F.~~

~~5. Other Legally Binding Protective Agreements~~

- a. ~~Other legally binding protective agreements include:~~
 - i. ~~Covenants running with the land;~~
 - ii. ~~Deed restrictions;~~
 - iii. ~~Conservation easements; and~~
 - iv. ~~Land trusts.~~
- b. ~~Other legally binding agreements shall provide:~~
 - i. ~~Protection for land forested, afforested, or reforested under the Calvert County Forest Conservation Program; and~~
 - ii. ~~Limitation on the uses of forest to those that are consistent with forest conservation.~~

S. 6. Procedure for a Timber Harvesting Plan

- 1.** ~~a.~~ An individual may harvest timber on forested, reforested, or afforested areas protected under an approved Forest Conservation Plan provided that the harvest:
 - a.** i. Is consistent with the intent of an approved forest management plan and terms of the recorded forest retention area, ~~forest conservation management agreement, or other long term protective agreement;~~
 - b.** ii. Is subject to a timber harvest plan:
 - i.** ~~(a)~~ Prepared by a licensed professional forester,
 - ii.** ~~(b)~~ Submitted to the local Forest Conservancy District Board for review and approval, and
 - iii.** ~~(c)~~ That remains in effect for two years; and
 - c.** iii. Is consistent with the intent and requirements of the approved Forest Conservation Plan.
- 2.** ~~b.~~ The local Forest Conservancy District Board shall notify the individual whether the timber harvest plan ~~under Section 8-3.05.Q.6.a of this regulation~~ has been approved.

(10/5/93)

7. Amendments to Long-Term Protective Agreements

a. Residential Subdivisions

For minor subdivisions including when fewer than the allowable number of lots are proposed:

- i. A forest stand delineation shall be conducted on any of the lots created that are greater than 40,000 square feet and a simplified forest stand delineation shall be required for all lots less than or equal to 40,000 square feet and for the remainder of the parcel.
- ii. A concept plan (survey not required) of the subdivision must be submitted which shows the potential location and area of the open space, lots, roads, and forest retention areas.
- iii. A note shall be recorded with both the lot and residue that the provisions of the Forest Conservation Program apply except that the 40,000 square foot exemption (Section 8-3.02.H of the Zoning Ordinance) does not apply.
- iv. The requirements of the Forest Conservation Program shall be met for the total subdivision and open space created or for each lot separately.
- v. If it is proposed to meet the forest conservation requirements on other than a lot-by-lot basis then the location and area (square feet) cleared on the lots and location and area (square feet) of any designated retention area on the lots shall be recorded with the lots. A note shall also be recorded with the residue charging the residue with the area cleared on the lots and crediting the residue with the forest area (square feet) retained.
- vi. Retention, afforestation and reforestation areas on the lots shall be noted on the final subdivision plat as forested areas that will be left undisturbed in perpetuity and to serve for water quality benefits.

(9/30/03)

(9/30/03)

(9/30/03)

b. Commercial and Industrial Subdivisions

For subdivisions in areas with Commercial or Industrial zoning (TC [including ECTC], I-1, MC, RC), where less than the allowable number of lots are proposed at the time of subdivision final approval:

- i. A simplified forest stand delineation shall be conducted on any of the lots created and for the remainder of the parcel.
- ii. A note shall be recorded with both the lot and residue that the provisions of the Forest Conservation Program apply except that the 40,000 square foot exemption (Section 8-3.02.H of the Zoning Ordinance) does not apply.

Moved to Section 8-3.04.E.

- iii. ~~The requirements of the Forest Conservation Program shall be met over all the lots created or for each lot separately. If it is proposed to meet the forest conservation requirements on other than a lot-by-lot basis then the location and area (square feet) cleared on the lots and location and area (square feet) of any designated retention area on the lots shall be recorded with the lots. A note shall also be recorded with the residue charging the residue with the area cleared on the lots and crediting the residue with the forest area (square feet) retained.~~
- iv. ~~Retention, afforestation and reforestation areas on the lots that include wetlands, wetland buffers, streams, stream buffers, and floodplains shall be noted on the final subdivision plat as forested areas that will be left undisturbed in perpetuity and to serve for water quality benefits.~~

c. ~~Site Plans~~

Moved to Section 8-3.04.E.

- i. ~~A simplified forest stand delineation shall be required for site plans located on Commercial or Industrially-zoned land.~~
- ii. ~~Retention, afforestation and reforestation areas on site plans that include wetlands, wetland buffers, streams, stream buffers, and floodplains shall be noted on the final site plan as forested areas that will be left undisturbed in perpetuity and to serve for water quality benefits. Other retention areas on the site may be developed through additional site plans but the calculated area cleared (square feet) on the site will include all areas (square feet) previously cleared since January 1, 1993.~~
- iii. ~~For certain projects, where development of a site will occur in phases, forest conservation requirements may be met for the current phase only. "Phased Development" is defined as commercial (non-residential) development of a recorded lot or parcel in Town Center, Employment Center/Town Center, Light Industrial, Marine Commercial, or Rural Commercial Zoning in which one specified area of the site is developed before other areas. Phased Development could also occur in Rural zoning for institutional use only. Each phase of development shall be shown on a site development plan. Forest Conservation Program requirements may be addressed one phase at a time. The 40,000 square foot exemption (Section 8-3.02.H of the Zoning Ordinance) does not apply to phases.~~

(9/30/03)

R. I. Approved Qualified Professional

1. An individual may prepare a Forest Stand Delineation or a Forest Conservation Plan, if the individual:
 - 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.

S. ~~Calvert County Forest Conservation Manual~~

~~The Calvert County Forest Conservation Manual which is included in the Calvert County Forest Conservation Program, Part IV, is hereby adopted into this Section of the Calvert County Zoning Ordinance by reference.~~