

# AMENDMENTS TO ARTICLE 8-3 FOREST CONSERVATION REQUIREMENTS

Public Hearing Draft  
October 16, 2009

The Public Forum will be held 7 PM, November 3, 2009  
Planning Commission Hearing Room, Courthouse Square Bldg.  
205 Main Street, Prince Frederick

Amendments proposed by Dept. of Planning & Zoning staff shown in red.

Amendments proposed by the State based on new State Forest Conservation Law and not yet seen by the BOCC shown in blue.

Additions shown in **bold underline**.

Deletions shown in ~~strikethrough~~.

## 8-3 FOREST CONSERVATION REQUIREMENTS

Amendments to Section 8-3.02.C (Current Z.O.: Art. 8-page 49)

**Case # 09-8-3-1.** Purpose of Amendment: Describes all requirements of a declaration of intent for timber harvest.

- C. Commercial logging and timber harvesting operations, including harvesting subject to the Forest Conservation and Management Program under the Tax-Property Article, §8-211, Annotated Code of Maryland, that are completed on property which:
1. Has not been the subject of an application for a grading permit for development within five years after the logging or timber harvesting operation, and after which time the property shall be subject to the forest conservation regulations, and
  2. Is the subject of a Declaration of Intent as provided for in Section 8-3.03 which includes:
    - a.** a sketch map of the property showing the area to be harvested;
    - b.** **a Timber Harvest Plan prepared by a professional forester; and**
    - c.** **a sediment and erosion control plan approved by the Calvert County**

**Soil Conservation District.**

Amendments to Section 8-3.02.D. (Current Z.O.: Art. 8-page 49)

**Case # 09-8-3-2.** Purpose of Amendment: Requires land to be assessed as agricultural in order to qualify for an agricultural exemption from the forest conservation regulations.

- D. Agricultural activities **on land assessed by the State as agricultural and** 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 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 **Public Utility Companies** Articles **7-207 and 7-208 or 7-205** 78, §§54A and 54B or §54-I, Annotated Code of Maryland. or land for electric generating stations licensed under **Public Utility Companies** Articles **7-207 and 7-208 or 7-205** 78, §§54A and 54B or §54-I, Annotated Code of Maryland, as amended from time to time if:
  - 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.

Amendments to Section 8-3.02.H.1 (Current Z.O.: Art. 8-page 49)

**Case # 09-8-3-3.** Purpose of Amendment: Meets State Law that reduces applicability to 20,000 sq. ft. of clearing on lots greater than or equal to 40,000 square feet.

- H. Any single-family residential development or residential construction 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 **30,000 20,000** square feet of forest on lots greater or equal to 40,000 square feet in size **and 10,000 square feet of forest on lots less than 40,000 square feet 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. Non-coal surface mining regulated under Natural Resources Article, Title 7, Subtitle 6A, Annotated Code of Maryland;

Amendments to Section 8-3.02.J (Current Z.O.: Art. 8-page 49)

**Case # 09-8-3-4. Purpose of Amendment:** In some subdivisions, large tracts of priority areas for retention have been placed in an Intra-family lot and therefore were exempted from the program and therefore exempted from conservation. The proposed amendment would provide some conservation of these priority retention areas.

- J. 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 ~~30,000~~ 20,000 square feet of forest; ~~and~~
  - 2. No priority areas for retention are located on the property unless they are recorded as Forest Retention Area; and**
  - 2.** is the subject of a Declaration of Intent as provided for in Section 8-3.03;
  - 3.**
- K. 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.

~~Amendments to Section 8-3.02.L (New Sub-Section)~~

~~**Purpose of Amendment:** This new exemption is proposed for redevelopment projects where all work is restricted to lands currently covered by impervious surface.~~

- ~~**L. Any activity proposed on areas that have been previously developed and are covered completely by impervious surface at the time of application for subdivision plan, site plan, grading, or sediment control permit approval.**~~

Amendments to Section 8-3.04.A (Current Z.O.: Art. 8-page 50)

**Case # 09-8-3-5. Purpose of Amendment to Paragraphs '1&3':** The State Law indicates that the Forest Conservation Act only applies to parcels of land greater than or equal to 40,000 square feet. The County is introducing a vegetation removal permit for removing vegetation without grading the land. This permit would not apply to Timber Harvests.

8-3.04 Administration

A. Application

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

- 1. A person making application for a subdivision, site plan, project plan, grading,

~~or~~ sediment control or vegetation removal approval on units of land 40,000 square feet or greater.

2. A public utility not exempt under Section 8-3.02.
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 or vegetation removal approval on units of land 40,000 square feet or greater.

Amendments to Section 8-3.04.B (Current Z.O.: Art. 8-page 51)

**Case # 09-8-3-6.** Purpose of Amendment: The County is introducing a vegetation removal permit for removing vegetation without removal of stumps or grading the land. This permit would not apply to Timber Harvests.

B. General Requirements

An owner or an owner's agent making application for subdivision, site plan, or local agency project plan approval, or making application for a grading ~~permit~~, vegetation removal, or a sediment control permit shall comply with the following requirements:

1. A Forest Stand Delineation and a Forest Conservation Plan for the lot or parcel on which the development is located shall be submitted to the Department of Planning and Zoning; and
2. Methods provided in the Maryland Forest Conservation Technical Manual to protect retained forests and trees during construction shall be used; and
3. If a person or local agency using State funds makes application to conduct a regulated activity, the State determines whether the State Forest Conservation Program applies.
4. The requirements of the Forest Conservation Program shall be met for the total subdivision and open space created or for each lot separately.
5. 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.

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

Amendments to Section 8-3.04.C (Current Z.O.: Art. 8-page 51)

**Case # 09-8-3-7. Purpose of Amendment:** The County is introducing a vegetation removal permit for removing vegetation without removal of stumps or grading the land. This permit would not apply to Timber Harvests.

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, site plan, or project plan approval, before a grading permit application, **a vegetation removal permit**, or before a sediment control application is submitted for the tract being developed.
2. The delineation shall be prepared by a licensed forester, licensed landscape architect, or a qualified professional who meets the requirements stated in Section 8-3.04.T of this Ordinance.
3. The delineation shall be used during the review process to determine the most suitable and practical areas for forest conservation.

Amendments to Section 8-3.04.F.2.a & 4 (Current Z.O.: Art. 8-page 56)

**Case # 09-8-3-8. Purpose of Amendment:** The County is introducing a vegetation removal permit for removing vegetation without removal of stumps or grading the land. This permit would not apply to Timber Harvests.

F. Final Forest Conservation Plan.

1. A final Forest Conservation Plan shall be prepared by a licensed forester, a licensed landscape architect, or a qualified professional who meets the requirements stated in Section 8-3.04.T 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
    - v. An application for a vegetation removal 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 8-3.04.Q 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 if survival rates fall below required standards, as provided in the Maryland Forest Conservation Technical Manual;
  - e. Include recorded plats that serve as long-term binding protective agreements.
  - f. Include the elements required under Sections 8-3.04.E.2. d and g-i of this Ordinance, as finalized elements of the Forest Conservation Plan.
3. Time for submittal
    - a. Within 60 calendar days after receipt of the final Forest Conservation Plan, the Department of Planning and Zoning shall notify the applicant whether the Forest Conservation Plan is complete and approved.
    - b. If the Department of Planning and Zoning fails to notify the applicant within 60 calendar days, the plan shall be treated as complete and approved.
    - c. The Department of Planning and Zoning may require further information or extend the deadline for an additional 15 calendar days under extenuating circumstances.
    - d. At the request of the applicant, the Department of Planning and Zoning may extend the deadline under extenuating circumstances.
  4. The Department of Planning and Zoning's review of a final Forest Conservation Plan shall be concurrent with the review of the final subdivision, site plan, or project plan, grading permit application, **vegetation removal permit application**, or sediment control application associated with the project.
  5. The Department of Planning and Zoning 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.

Amendments to Section 8-3.04.G (Current Z.O.: Art. 8-page 57)

**Case # 09-8-3-9.** Purpose of Amendment: The County is introducing a vegetation removal permit for removing vegetation without removal of stumps or grading the land. This permit would not apply to Timber Harvests.

G. Afforestation Requirement.

A person making application for subdivision, site plan, or project plan approval, a grading permit, vegetation removal permit application, or a sediment control permit, unless exempt under Section 8-3.02 of this Ordinance, shall:

1. Conduct afforestation on the lot or parcel in accordance with Table 8-3.04.G.1.  
A tract having less than the appropriate afforestation threshold of the net tract area in forest cover shall be afforested up to at least the afforestation threshold of the net tract area.

Amendments to Table 8-3.04.G.1 (Current Z.O.: Art. 8-page 57)

**Case # 09-8-3-10.** Purpose of Amendment: Adds Employment Center Districts, which are part of our Priority Funding Areas and areas where we expect intense development, to the Afforestation Thresholds Table.

Table 8-3.04.G.1 Afforestation Thresholds	
<u>Zoning District</u>	<u>Afforestation Threshold</u>
Farm & Forest District, Rural Community District and Wetlands	20 percent
Institutional in Farm & Forest District <del>and</del> <u>or</u> Rural Community District	15 percent
Residential District	15 percent
Town Centers <del>and</del> <u>Employment Center Districts</u>	15 percent
Rural Commercial, Marine Commercial, and I-1 Light Industrial Districts	15 percent

2. Comply with the following when cutting into forest cover that is currently below the afforestation percentages described in Table 8-3.04.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.

Amendments to Section 8-3.04.H (Current Z.O.: Art. 8-page 58)

**Case # 09-8-3-11.** Purpose of Amendment to sub-paragraph '1.a': Excludes small areas of steep slopes that are not adjacent to wetlands, streams and waterways from designation as priority retention areas.

Purpose of Amendment to sub-paragraph '1.e.ii': The Calvert County Forest Conservation Manual (CCFCM) is no longer used. Currently, the State Forest Conservation Manual is used.

H. Retention Requirement

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 Department of Planning and Zoning 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 **of any size that are adjacent to wetlands, streams and waterways and other steep slopes that form a contiguous area greater than 5,000 square feet**, nontidal wetlands and their buffers, and 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.

(08/28/07)

2. Location of Forest Retention Areas (FRAs)

All retention areas located on land zoned Farm & Forest District or Rural Community District and that are part of a clustered subdivision shall be placed outside of the lot areas. In all other instances, when the FRAs are allowed and proposed within the lot lines, the FRAs shall be contiguous with FRAs on other lots or open space. If the entire FRA is located on one lot, it shall be in large contiguous blocks. The Building Restriction Lines shall be 10 feet from the FRAs.

I. Reforestation - Forest Conservation Threshold

- 1. There is a forest conservation threshold established for all zoning districts, as provided in Table 8-3.04.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 exhausting efforts to minimize the cutting or clearing of trees and other woody plants in the development of a subdivision, site plan, 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 8-3.04.I.2&3 and consistent with Section 8-3.04.D and 8-3.04.J of this Ordinance and the following forest conservation thresholds for the applicable zoning districts:

Amendments to Table 8-3.04.1.2 (Current Z.O.: Art. 8-page 59)

**Case # 09-8-3-12.** Purpose of Amendment: Adds Employment Center Districts, which are part of our Priority Funding Areas and areas where we expect intense development, to the Conservation Thresholds Table.

Table 8-3.04.1.2 Conservation Thresholds	
<u>Zoning District</u>	<u>Conservation Threshold</u>
Farm & Forest District and Wetlands District	50 percent
Rural Community District	30 percent
Institutional in Farm & Forest District & Rural Community District	20 percent
Residential District	20 percent
Town Center <b>and Employment Center</b> Districts	15 percent
Rural Commercial, Marine Commercial, and I-1 Light Industrial Districts	15 percent

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 Maryland Forest Conservation Technical Manual.
- 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.

Amendments to Section 8-3.04.J.1.g & h (Current Z.O.: Art. 8-page 60)

**Case # 09-8-3-13.** Purpose of Amendment to sub-paragraph 'g': Natural regeneration often takes five to seven years to become established and competition with other species especially invasive species and predation can threaten the success of the planting. Provides additional criteria to insure the success of natural regeneration and provides a definition of success.

**Case # 09-8-3-14.** Purpose of Amendment to sub-paragraph 'h': Allows mitigation to be achieved by preserving forested land outside of Agricultural Preservation Districts (APDs) and of sufficient size on a 2:1 basis. Currently, this is only allowed in APDs (Forestry TDRs). One advantage is that more existing forest area could be preserved. Disadvantages are the preserved forests may occur in smaller patches and this approach would compete with Forestry TDRs.

J. Priorities, and Sequence for Mitigation

1. After techniques for retaining existing forest on the site have been exhausted, the prescribed sequence for afforestation and reforestation, is as follows:
  - a. Selective clearing and supplemental planting on site and managed natural regeneration per an approved Forest Management Plan;
  - 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. Purchase of Forest Conservation Transferable Development Rights (See Section 8-3.04.K);
  - g. Natural regeneration of native vegetation off-site **or on-site with competitive and invasive species control for at least two years, predation control if necessary, a five-year maintenance agreement, and a final tree density of at least 100 seedlings, saplings and/or trees per acre**; and
  - h. The placement of Forest Conservation Easements on forested land at least one acre in size. Two acres of forest must be preserved in this way for each acre of mitigation (rounded up to the nearest whole number) required. These easements must be perpetual and recorded in the Calvert County Land Records.**
  - ~~h.~~ Landscaping of **on-site** 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 8-3.04.**L. If the mitigation required is less than or equal to 5,000 sq. ft., fees-in-lieu may be used as the sole mitigation method.**

2. A mitigation sequence other than the one described in Section 8-3.04.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 **where were** not selected.
3. The following are considered a priority for afforestation and reforestation:

Amendments to Section 8-3.04.L.3 (Current Z.O.: Art. 8-page 62)

**Case # 09-8-3-15. Purpose of Amendments:** Requires payment of fees-in-lieu prior to receiving any permits not just before issuance of a Use and Occupancy permit. This proposed amendment assures that fees-in-lieu are paid before any significant impacts (clearing, construction or grading) take place. Amendment to sub-paragraph '7' is a correction.

- L. Fees-In-Lieu of Afforestation and Reforestation – Calvert County Forest Conservation Fund.
  1. A Calvert County Forest Conservation Fund is established to receive 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 Department of Planning and Zoning 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 pay, at a rate established by resolution by the Board of County Commissioners, into the County Forest Conservation Fund.
  3. Money **contributed paid** 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 Department of Planning and Zoning 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 **or the purchase of Forestry TDRs.**
  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 site identification, acquisition, **purchase of permanent easements, and preparation for plantings, planting bid package preparation, and supervision of plantings;**
    - b. Shall be deposited in a separate forest conservation fund;
    - c. May not revert to the general fund.

7. Sites for Afforestation or Reforestation Using Fund Money.
  - a. Except as provided in Section ~~8-3.04.L.6.b~~ **8-3.04.L.7.b**, 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.

Amendments to Section 8-3.04.N (Current Z.O.: Art. 8-page 63)

**Case # 09-8-3-16.** Purpose of Amendment: Provides for an administration fee associated with bonds. The administrative fee would be used to pay staff time to administer the bond and to make at least two site visits, one initially to observe that the planting has been accomplished and after two growing seasons to assure survival. In addition, the proposed amendment would allow access to the bonded site to plant the trees in cases where the applicant has failed to conduct the required plantings.

- N. A person required to conduct afforestation or reforestation shall include a bond or other financial security as an element of a forest conservation plan. This Section does not apply to agencies of any Federal, State, County or Municipal government.
  1. Requirements
    - a. A financial security shall be furnished in the form of a surety bond, an irrevocable letter of credit, cash bond, certificate of guarantee, or other surety as authorized from time to time by the Board of County Commissioners and approved by the Office of the County Attorney. The surety shall:
      - i. Name the Board of County Commissioners as obligee;
      - ii. Assure that the mitigation replanting is conducted in accordance with the approved mitigation plan;
      - iii. Be in an amount equal to ~~4.25~~ **1.00** times the cost as **estimated approved** by the Department of Planning and Zoning of performing the mitigation, ~~plus 0.25 times the same cost as an~~ **a review and inspection administrative fee, as set by the County Commissioners, will be submitted with the bond to cover the costs of inspections and handling of the bond. This fee —, which will not be reimbursed, but placed in the Planning and Zoning Environmental Review Fund.**
      - iv. Remain in force until all requirements of the mitigation plan **including maintenance and monitoring** have been fulfilled to the satisfaction of the Department of Planning and Zoning.

- b. The surety may not be cancelled by the issuing entity unless both of the following requirements are fulfilled:
          - i. The issuer notifies the Board of County Commissioners and the principal of its intention to cancel the surety, in writing, by registered mail, not less than 90 days before cancellation; and
          - ii. At least 45 days before the cancellation date indicated in the notice, the principal files a commitment from another entity to provide a substitute surety that will be effective on the cancellation date indicated in the notice.
2. Forfeiture of Surety.
- a. The surety shall be subject to forfeiture if the principal fails to comply with the Forest Conservation Plan or the Maintenance Agreement.
  - b. Before forfeiture of the surety, the Board of County Commissioners shall notify the principal and the issuer, by certified mail, of the failure of the principal to comply with the Forest Conservation Plan or the Maintenance Agreement, and shall give the principal 30 days to come into compliance.
  - c. If ~~the principal~~ **a person** fails to come into compliance within the 30-day period, the surety shall be forfeited **and the County and its agents shall be allowed access to the property to accomplish the previously bonded planting.**
3. Release of Surety.
- a. If, after two growing seasons, the survival of plantings associated with the Forest Conservation Plan or Maintenance Agreement meets or exceeds the standards of the Plan or Agreement, the amount of the surety shall be released ~~less the administration fee.~~
  - b. If, after two growing seasons, the survival of the plantings associated with the Forest Conservation Plan or Maintenance Agreement is less than the standards of the Plan or Agreement, the surety shall be reduced by a percentage equal to the percentage of plantings that have survived and that portion of the surety shall be released ~~less the administration fee.~~ **An additional administrative review and inspection fee as set by the County Commissioners will be submitted prior to partial release of the surety to cover the costs of additional inspections and handling of the remaining bond. This fee will not be reimbursed, but placed in the Planning and Zoning Environmental Review Fund.**
- O. Standards for Protecting Trees from Construction Activities
- 1. The standards for the protection of trees from construction activity are given in the Maryland Forest Conservation Technical Manual.
  - 2. Before cutting, clearing, grading, or construction begins on a site for which a Forest Conservation Plan is required by this article, the applicant shall demonstrate to the Department of Planning and Zoning that protective devices have been established.

Amendments to Section 8-3.04.P (Current Z.O.: Art. 8-page 65)

Purpose of Amendment to sub-paragraph '1.b': Correction.

**Case # 09-8-3-17.** Purpose of Amendment to sub-paragraph '4.c.ii.: Clarifies corrective actions for a FCP violation.

P. Penalties and Enforcement

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 Department of Planning and Zoning 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 ~~8-3.04.L~~ **8-3.04.P.1.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 8-3.04.P.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 Department of Planning and Zoning.
- b. Each day a violation continues is a separate violation.

3. The Department of Planning and Zoning 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 Department of Planning and Zoning may serve a written complaint to an alleged violator if the Department of Planning and Zoning 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 Department of Planning and Zoning 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~~ **replant and mitigate** unlawfully cleared areas **as described in Section 8-2.08.B & C; and/or**
    - (e) Submit a written report ~~or~~ **and restoration** plan concerning the violation to the Department of Planning and Zoning **for review and approval.**
- d. Service
  - i. A complaint, order, or other administrative notice issued by the Department of Planning and Zoning shall be served in a manner as described in Section 1-7.
  - ii. An order issued under this regulation is effective immediately, according to its terms, when it is served.

Amendments to Section 8-3.04.Q (Current Z.O.: Art. 8-page 67)
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<u>Purpose of Amendment:</u> Clarification.
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- Q. Forest Conservation Maintenance ~~and Management~~ Agreements - Short Term Protective Agreements
  - 1. Maintenance Agreements
    - a. Application. A person required to conduct afforestation or reforestation under Section 8-3 shall include in the Forest Conservation Plan a binding maintenance agreement for the length of two years.
    - b. Approval procedures and timing shall be consistent with the procedures provided in Section 8-3.04.E of this Ordinance.
    - 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 the Maryland Forest Conservation Technical Manual.

Amendments to Section 8-3.04.R (Current Z.O.: Art. 8-page 67)

**Case # 09-8-3-18.** Purpose of Amendment to sub-paragraph '1' & new '2': Forested landscaped areas, if of sufficient size, can be used to meet reforestation requirements and, once planted, are considered Forest Retention Areas (FRAs). The platting of FRAs is required for the Final Forest Conservation Plan (Section 8-3.04.F.2.e) but should also be included in this section as it is our primary long-term protection agreement. Purpose of Amendment to sub-paragraph existing subsections '2' & '3': Clarification.

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 to preserve and protect areas retained in FRA, including afforested, ~~or~~ reforested and forested landscaped areas.
- 2. FRAs shall be located on a plat by a surveyor or engineer licensed in the State of Maryland and recorded in the Calvert County Land Records with notes that will maintain the area in forest in perpetuity and, when they exist, with associated conservation easements and Forest Conservation Management Agreements.**
2. Approved Forest Management Plan
  - a. Procedure for Approval.

An application for approval of a Forest Management Plan shall include all information required in the Maryland Forest Conservation Technical Manual.
  - 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.
  - c. The DNR forester shall review the plan to ensure that it is complete and consistent with Section 8-3 of this Ordinance.
  - d. DNR shall notify the applicant and the Department of Planning and Zoning 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;

Note: Section 8-3.04.R.2 & 3 moved to new Section 8-3.04.T.1 & 2

- ~~e. The amendment shall be submitted to the DNR forester assigned to the County where the property is located;~~
- ~~d. The DNR forester shall review the amendment to ensure that it is complete and consistent with Section 8-3 of this Ordinance.~~
- ~~e. Once the amendment has been approved by DNR, the applicant shall sign the amendment.~~

Amendments to Section 8-3.04.S (Current Z.O.: Art. 8-page 68).

Purpose of Amendment: Clarification.

S. Procedure for a Timber Harvesting Plan

1. Timber may be harvested on forested, reforested, or afforested areas protected under an approved Forest Conservation Plan provided that the harvest:
  - a. Is consistent with the intent of an approved Forest Management Plan (**see Section 8-3.04.T. 1 and 2**) and terms of the recorded forest retention area,
  - b. Is subject to a Timber Harvest Plan:
    - i. Prepared by a licensed professional forester,
    - ii. Submitted to the local Forest Conservancy District Board for review and approval, and
    - iii. That remains in effect for two years; and
  - c. Is consistent with the intent and requirements of the approved Forest Conservation Plan.
2. The local Forest Conservancy District Board shall notify the owner or owner's agent whether the Timber Harvest Plan has been approved.

**T. Forest Management Plans**

1. Approved Forest Management Plan
  - a. Procedure for Approval.  
An application for approval of a Forest Management Plan shall include all information required in the Maryland Forest Conservation Technical Manual.
  - 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.
  - c. The DNR forester shall review the plan to ensure that it is complete and

consistent with Section 8-3 of this Ordinance.

d. DNR shall notify the applicant and the Department of Planning and Zoning as to whether the Forest Management Plan has been approved.

2. Procedure for Amendment of an Approved Forest Management Plan.

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

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

c. The amendment shall be submitted to the DNR forester assigned to the County where the property is located;

d. The DNR forester shall review the amendment to ensure that it is complete and consistent with Section 8-3 of this Ordinance.

e. Once the amendment has been approved by DNR, the applicant shall sign the amendment.

F.  
U. Approved Qualified Professional

1. A person may prepare a Forest Stand Delineation or a Forest Conservation Plan, if the person:
  - a. Is a licensed forester;
  - b. Is a licensed landscape architect; or
  - c. Is certified by the State as a Qualified Professional relative to the preparation of Forest Stand Delineations and Forest Conservation Plans.