



MAYOR AND COUNCIL

Meeting No. 02-26
Monday, January 12, 2026 - 6:30 PM

AGENDA

Agenda item times are estimates only. Items may be considered at times other than those indicated.

Ways to Participate

If you require a reasonable accommodation, for community forum or a public hearing and need reasonable accommodations, please contact the City Clerk's Office by the Wednesday before the Monday meeting at 240-314-8280 or cityclerk@rockvillemd.gov or by filling this form: <https://www.rockvillemd.gov/FormCenter/City-Manager-2/Request-a-Reasonable-Accommodation-50>

Translation Assistance

If you wish to participate in person at a Mayor and Council meeting during community forum or a public hearing and may need translation assistance in a language other than English, please contact the City Clerk's Office by the Wednesday before the Monday meeting at 240-314-8280, or cityclerk@rockvillemd.gov, or by using this form: <https://www.rockvillemd.gov/FormCenter/City-Clerk-11/Sign-Up-for-Translation-Assistance-at-Co-368>

In-Person Attendance

Community members attending in-person who wish to speak during Community Forum, or a Public Hearing, should sign up using the form at the entrance to the Mayor and Council Chamber. In-person speakers will be called upon in the order they are signed to speak and before virtual speakers.

Note: In-Person Speakers will be called upon to speak before those who have signed up to speak virtually for Community Forum and Public Hearings.

Viewing Mayor and Council Meetings

The Mayor and Council are conducting hybrid meetings. The virtual meetings can be viewed on Rockville 11, Comcast, Verizon cable channel 11, livestreamed at www.rockvillemd.gov/rockville11, and available a day after each meeting at www.rockvillemd.gov/videoondemand.

Participating in Community Forum & Public Hearings:

If you wish to submit comments in writing for Community Forum or Public Hearings:

- Please email the comments to mayorandcouncil@rockvillemd.gov no later than 10:00 am on the date of the meeting.

If you wish to participate in-person or virtually in Community Forum or Public Hearings during the live Mayor and Council meeting:

1. Send your Name, Phone number, For Community Forum and Expected Method of Joining the Meeting (computer or phone) to mayorandcouncil@rockvillemd.gov no later than 10:00 am on the day of the meeting. Each speaker will receive 3 minutes.
2. Send your Name, Phone number, the Public Hearing Topic and Expected Method of Joining the Meeting (computer or phone) to mayorandcouncil@rockvillemd.gov no later than 10:00 am on the day of the meeting.
3. On the day of the meeting, you will receive a confirmation email with further details, and two Webex invitations: 1) Optional Webex Orientation Question and Answer Session and 2) Mayor & Council Meeting Invitation.
4. Plan to join the meeting no later than approximately 20 minutes before the actual meeting start time.
5. Read for <https://www.rockvillemd.gov/DocumentCenter/View/38725/Public-Meetings-on-Webex> meeting tips and instructions on joining a Webex meeting (either by computer or phone).
6. If joining by computer, Conduct a WebEx test: <https://www.webex.com/test-meeting.html> prior to signing up to join the meeting to ensure your equipment will work as expected.

Participating in Mayor and Council Drop-In (Mayor Ashton and Councilmember Valeri)

The next scheduled Drop-In Session will be held by phone or in-person on Monday, January 12 from 5:15- 5:40 pm with Mayor Ashton and Councilmember Valeri. Please sign up by 10 am on the meeting day using the form at:

<https://www.rockvillemd.gov/formcenter/city-clerk-11/sign-up-for-dropin-meetings-227>

1. **Convene - 6:30 PM**
2. **Pledge of Allegiance**
3. **Proclamation and Recognition - NONE**
4. **Agenda Review - 6:35 PM**
5. **City Manager's Report - 6:40 PM**
6. **Boards and Commissions Appointments and Reappointments - 6:45 PM**
 - A. Board and Commission Appointment and Reappointment
7. **Community Forum - 6:50 PM**
8. **Special Presentations - NONE**
9. **Consent Agenda - 7:10 PM**

- A. Award a Contract in the Form of a Purchase Order to 72 Hour LLC, d/b/a National Auto Fleet Group of Watsonville, CA, for the Purchase of One Freightliner M2106 Utility Truck in the Amount of \$308,854.00 Consistent with the Terms and Conditions of the Cooperative Purchase Sourcewell Contract #060920-NAF
- B. FY 2025 Annual Comprehensive Financial Report (ACFR), Independent Auditor Reports, and FY 2025 Popular Annual Financial Report (PAFR)
- C. Approval of the Memorandum of Understanding (MOU) between the City of Rockville and Montgomery County Board of Elections for the use of the Drop Box located at City Hall.

10. Public Hearing - NONE

11. Action Items - 7:15 PM

- A. Adoption of an Ordinance to Amend Chapter 10.5 of the Rockville City Code, entitled "Forest and Tree Preservation," to Bring the Chapter into Conformance with Current State Law and Make Various Modifications to Improve the Administration of the Chapter

12. Worksession - NONE

13. Mock Agenda - 7:40 PM

- A. Mock Agenda

14. Old / New Business - 7:45 PM

15. Adjournment - 8:00 PM



MAYOR AND COUNCIL Meeting Date: January 12, 2026
Agenda Item Type: APPOINTMENTS & REAPPOINTMENTS
Department: CITY CLERK/DIRECTOR OF COUNCIL OPERATIONS OFFICE
Responsible Staff: VERONICA MITCHELL

Subject

Board and Commission Appointment and Reappointment

Recommendation

The Mayor put forth the following nomination for membership to the Boards and Commissions for confirmation by Councilmembers.

Human Rights Commission

Magda Brown- new appointment to serve an expiring three-year term until November 1, 2028.

Planning Commission

Jaime Espinosa- reappointment to serve a new five-year term until February 1, 2031.

Attachments



MAYOR AND COUNCIL Meeting Date: January 12, 2026

Agenda Item Type: CONSENT

Department: PW - FLEET SERVICES

Responsible Staff: KEITH VOGEL

Subject

Award a Contract in the Form of a Purchase Order to 72 Hour LLC, d/b/a National Auto Fleet Group of Watsonville, CA, for the Purchase of One Freightliner M2106 Utility Truck in the Amount of \$308,854.00 Consistent with the Terms and Conditions of the Cooperative Purchase Sourcwell Contract #060920-NAF

Department

PW - Fleet Services

Recommendation

Staff recommends that the Mayor and Council award a contract in the form of a purchase order to 72 Hour LLC, d/b/a National Auto Fleet Group of Watsonville, CA, for the purchase of one utility truck in the amount of \$308,854.00 consistent with the terms and conditions of the Cooperative Purchase Sourcwell Contract #060920-NAF.

Discussion

The purchase of a utility truck was approved in the FY26 budget (Attachment 1). The new truck will replace Unit #499 (2008 International). This vehicle is 17 years old and has the expected wear and tear for its age. Due to its extensive use, the truck has accumulated a high number of engine hours. Furthermore, because of its age, parts for the vehicle are increasingly difficult to obtain.

Utility trucks are used by the Storm Water Maintenance Division when performing maintenance to the storm water system. These trucks carry the materials and tools needed to find and repair problems in the City's system.

Per Resolution 02-22, Transition the City On-Road Fleet to Cleaner and More Efficient Fuel Sources, staff evaluated alternatives for this vehicle replacement. This type of vehicle is not currently available as an electric or hybrid vehicle. Additionally, this vehicle is needed for 24-hour utility operations. As the vehicle would need to be charged, it would not be operationally possible to utilize an electric vehicle. Staff will continue to monitor the market for available clean fuel and hybrid models that may be suitable for the heavy-duty fleet services.

The vehicle being replaced will be disposed of in accordance with City procedures via auction.

Mayor and Council History

This is the first time this agenda item has been brought before the Mayor and Council.

Procurement

This is a purchase order that serves as a contract and the City of Rockville (City) is using the cooperative purchase process to make this purchase through the Sourcewell local government service cooperative. Sourcewell serves as a municipal contracting agency throughout the nation with competitively awarded contracts. The City Procurement Department has used Sourcewell for the purchase of goods and services in the past.

Purchasing through a Sourcewell contract provides the City with highly competitive pricing, as Sourcewell competitively bids for a large number of vehicles that are purchased nationwide by its 50,000+ members. By using the Sourcewell contract, the City is able to benefit from high volume discount pricing that would not be attainable by issuing a competitive solicitation for only one vehicle.

In accordance with Section 17-71(b) of the Rockville City Code, Cooperative Procurement, the City may contract with any contractor who offers goods, services, insurance, or construction on the same terms as provided to other State or local governments or agencies thereof, who have arrived at those terms through a competitive procurement procedure similar to the procedures used by the City.

In accordance with Rockville City Code, Section 17-39(a), Awarding Authority, all contracts, including purchase orders, over \$250,000 shall be awarded by the Mayor and Council. The contract, in the form of a purchase order, will incorporate the terms and conditions of the applicable Sourcewell contract for this purchase. The purchase order will be signed by both the City and the vendor.

72 Hour LLC, d/b/a National Auto Fleet Group is a non-Minority, Female, Disabled or Veteran (non-MFD-V) business.

The draft purchase order is attached as Attachment 2.

To view all contract documents, please click the links below:

[Sourcewell Quote ID3289HD R1 12-4-25](#)

[National Auto Fleet 032824-NAF - Price Information](#)

[National Auto Fleet Contract 032824](#)

[RFP and Addendums-Class 4-8 Chassis 032824-2](#)

Fiscal Impact

The budgeted amount in FY26 for one utility truck is \$309,340. There is adequate funding in the Department of Public Works Fleet Services Division vehicle replacement account for this award.

Next Steps

Upon Mayor and Council approval, the Procurement Department will issue a Purchase Order to 72 Hour LLC d/b/a National Auto Fleet Group for the purchase of one (1) utility truck.

Attachments

Attachment 1 -Fleet Replacement FY26, Attachment 2 - DRAFT PO 850-1202250200 _
NATIONAL AUTO FLEET

Fleet Replacement Schedule

The city's Fleet Services Division continually monitors and maintains the city's fleet to ensure maximum useful life. Staff review the fleet each year and recommend replacement for vehicles meeting specific age, mileage, meter hours, condition, and usefulness criteria. When possible, vehicles will be reassigned within or between departments in order to maximize full unit life under the replacement criteria. Factors such as serviceability and technological life are also taken into consideration when making recommendations for replacement. The Fleet Services Division is responsible for ensuring that vehicles acquired are equipped with available features intended to enhance safety for motorists, pedestrians, and bicyclists in accordance with the Vision Zero Action Plan.

The vehicles shown below are scheduled for replacement in FY 2026. The FY 2026 budget also includes funding to lease a total of 209 vehicles. In support of the city's Climate Action Plan, staff anticipates that 10 of the vehicles acquired in FY 2026 will be electric.

Fund	Dept	Unit	Est. Cost
General	R&P	Senior Center Bus (electric)	\$239,700
General	R&P	Parks Refuse Truck	\$147,900
General	PW	Fork Lift	\$32,640
General	PW	Loader	\$244,800
General	PW	Light Duty Saltbox	\$6,500
General	PW	Heavy Duty Saltbox	\$15,610
General	PW	Light Duty Plow	\$8,670
General	PW	Medium Duty Plow	\$9,880
General	PW	Heavy Duty Plow	\$18,730
Refuse	PW	Refuse Truck	\$178,500
Refuse	PW	Leaf Collector Truck	\$280,500
SWM	PW	Utility Truck	\$290,700
SWM	PW	Truck Mounted Compressor	\$18,640
TOTAL for Planned Vehicle Purchases:			\$1,492,770



Purchase Order

Page 1

City of Rockville

Purchasing 240-314-8430 Fax 240-314-8439

Tax Exempt Number: Maryland - 3000123-5; Federal - 52-6001573

PURCHASE ORDER NUMBER MUST BE REFERENCED ON ALL INVOICES

Ref:

PO Number:

PO 850

1202250200

Purchase Order Date:

Vendor Number: VC0000104526

Phone:

Email:

Contractor Address (Mail To):

72 HOUR LLC

490 AUTO CENTER DRIVE

WATSONVILLE, CA 95076

SHIP TO: Public Works Department-Maintenance

Maintenance Division

14625 Rothgeb Drive

Rockville, MD 20850

ATTN: Julia Huang

BILL TO: Public Works Department-Maintenance

Maintenance Division

14625 Rothgeb Drive

Rockville, MD 20850

Contract Number: DRAFT 25-1945 **Proc. Type:** Purchase Order

Version Number: 1 **Comment:**

Delivery Date: **Confirmation:** No

Contact Name: Julia Huang

Phone/Email: 240-314-8486/jhuang@rockvillemd.gov

FOB:

Grand Total Amount:

\$308,854.00

Purchasing Contact:

Regina Washington

Phone/Email: 240-314-8431/rwashington@rockvillemd.gov

Special Instructions:

Line	Commodity Code/Description	Quantity	Unit of Measure	Unit Price	Amount \$
1	06510	0		\$0.00	\$308,854.00



Purchase Order

Page 2

City of Rockville

Purchasing 240-314-8430 Fax 240-314-8439

Tax Exempt Number: Maryland - 3000123-5; Federal - 52-6001573

PURCHASE ORDER NUMBER MUST BE REFERENCED ON ALL INVOICES

Ref:

PO Number:

PO 850

1202250200

Purchase Order Date:

Line	Commodity Code/Description	Quantity	Unit of Measure	Unit Price	Amount \$
Bodies, Utility					
PURCHASE OF ONE 2027 FREIGHTLINER M2106 IN THE AMOUNT NOT TO EXCEED \$308,854.00 AWARDED TO 72 HOUR, LLC dba NATIONAL AUTO FLEET PER SOURCEWELL CONTRACT#032824-NAF AND QUOTE#3289HD. SOURCEWELL CONTRACT TERM THROUGH JULY 9, 2028. NATIONAL AUTO FLEET. POC: BEN RODRIGUEZ; 855-289-6572; BEN@NATIONALAUTOFLEETGROUP.COM VEHICLE DEALER DOCUMENTATION AND PREPARATION EACH ORDERED VEHICLE SHALL BE DELIVERED WITH THE FOLLOWING DOCUMENTS: 1. TEMPORARY REGISTRATION AND TAGS, 2. A MILEAGE STATEMENT 3. CERTIFICATE OF ORIGIN 4. AN INVOICE FOR THE VEHICLE(S) STATING ALL CHARGES 5. AN APPLICATION FOR TITLE IN MARYLAND SIGNED BY THE DEALER, AND FILLED OUT AS FOLLOWS: APPLICANT'S NAME: MAYOR AND COUNCIL OF ROCKVILLE ADDRESS: 111 MARYLAND AVE. ROCKVILLE, MD. 20850 SOUNDEX NUMBER: Z-975-000-351-460 INSURANCE CO.: LOCAL GOVERNMENT INSURANCE TRUST POLICY NO.: 0094 AGENT: LOCAL GOVERNMENT INSURANCE CLAIMS CLASS OF TAG: LG (LOCAL GOVERNMENT) IMPORTANT: MARYLAND DEALER'S CERTIFICATION MUST BE COMPLETED IN FULL OR THE VEHICLE CANNOT BE ACCEPTED BY THE CITY OF ROCKVILLE. 6. A CERTIFICATE SHOWING THE VEHICLE WAS SERVICED IN ACCORDANCE WITH THE MANUFACTURERS RECOMMENDED NEW MOTOR VEHICLE PREPARATION CHECK SHEET. THIS CERTIFICATION SHALL BE SIGNED BY THE PERSON WHO SERVICED THE VEHICLE, AS WELL AS THE OWNER AND/OR DESIGNATED REP OF MANAGEMENT. 7. EACH VEHICLE SHALL CONTAIN APPROPRIATE FUEL UPON DELIVERY AS SET FORTH BELOW. 8. ALL DEALER IDENTIFICATION SHALL BE REMOVED FROM THE VEHICLE PRIOR TO DELIVERY. 9. CONTACT MR. KEITH VOGEL, FLEET MANAGER, AT 240.314.8487 WITH NOTIFICATION OF THE EXPECTED DELIVERY DATE AT LEAST 24 BUSINESS HOURS PRIOR TO DELIVERY. DELIVERY INSTRUCTIONS FOR VEHICLES & HEAVY EQUIPMENT: THE CITY WILL ONLY ACCEPT DELIVERY IF ALL APPLICABLE DOCUMENTATION IS INCLUDED WITH THE EQUIPMENT. THE CITY WILL NOT ACCEPT EQUIPMENT DELIVERED WITHOUT DOCUMENTATION AND WILL WITHHOLD PAYMENT UNTIL REQUIRED DOCUMENTATION IS RECEIVED: 1. AAMVA RECOMMENDED UNIFORM CERTIFICATE OF ORIGIN, CONFORMING TO MARYLAND LAW. 2. APPLICATION FOR CERTIFICATE OF TITLE (FORM VR-5); SECTION 2 AND 4 COMPLETED BY SELLER. 3. WARRANTY REGISTRATION DOCUMENTS WITH MAKE/MODEL/SERIAL NUMBERS FILLED IN WARRANTY FOR THIS VEHICLE 5 YEARS PER CONTRACT AND QUOTE. 4. MILEAGE STATEMENT 5. MARYLAND STATE INSPECTION CERTIFICATE (FORM MSP-2363), IF REQUIRED. 6. ASSIGNMENT OF CERTIFICATE OF ORIGIN AND TITLE APPLICATION, IF APPLICABLE, MUST BE AS FOLLOWS: MAYOR AND COUNCIL OF ROCKVILLE 111 MARYLAND AVENUE ROCKVILLE, MD 20850 EQUIPMENT MUST BE COMPLETELY ASSEMBLED, THOROUGHLY TESTED, AND READY FOR OPERATION UPON DELIVERY. EQUIPMENT MUST BE PROPERLY SERVICED, CLEANED, WASHED, FULLY FUELED, AND IN ORIGINAL EQUIPMENT MANUFACTURER OPERATING CONDITION. ALL RECOMMENDED LUBRICATION, ADJUSTMENT OF MECHANISMS, AND OPERATION OF ALL MECHANICAL, HYDRAULIC, AND ELECTRICAL FEATURES AND SYSTEMS MUST BE INCLUDED IN DELIVERY. ADDITIONALLY, DEALER MUST GIVE TO THE CITY THE PARTS, SERVICE, REPAIR, LUBRICATION, WIRING, HYDRAULIC DIAGRAM, AND PNEUMATIC DIAGRAM INFORMATION IN THE MOST CURRENT MEDIA AVAILABLE, PREFERABLY WEB-BASED, FOR THE PRICE LISTED ON THE PURCHASE ORDER. INSTRUCTIONS TO ACCESS SUCH INFORMATION MUST BE PROVIDED AT DELIVERY. CITY WILL NOT ACCEPT UNITS DELIVERED WITHOUT THE REQUIRED INFORMATION AND INSTRUCTION. WARRANTY. VENDOR WARRANTS THAT ALL EQUIPMENT, PRODUCTS, AND SERVICES FURNISHED ARE FREE FROM LIENS AND ENCUMBRANCES, AND ARE FREE FROM DEFECTS IN DESIGN, MATERIALS, AND WORKMANSHIP. IN ADDITION, VENDOR WARRANTS THE EQUIPMENT, PRODUCTS, AND SERVICES ARE SUITABLE FOR, AND WILL PERFORM IN ACCORDANCE WITH, THE ORDINARY USE FOR WHICH THEY ARE INTENDED. VENDORS DEALERS AND DISTRIBUTORS MUST AGREE TO ASSIST THE CITY IN REACHING A RESOLUTION IN ANY DISPUTE OVER WARRANTY TERMS WITH THE MANUFACTURER. ANY MANUFACTURERS WARRANTY THAT IS EFFECTIVE PAST THE EXPIRATION OF THE VENDORS WARRANTY WILL BE PASSED ON TO THE CITY.					

GRAND TOTAL

\$308,854.00

TERMS AND CONDITIONS at:

<http://www.rockvillemd.gov/documentcenter/view/75>

Are incorporated by reference



Purchase Order

Page 3

City of Rockville

Purchasing 240-314-8430 Fax 240-314-8439

Tax Exempt Number: Maryland - 3000123-5; Federal - 52-6001573

PURCHASE ORDER NUMBER MUST BE REFERENCED ON ALL INVOICES

Ref:

PO Number:

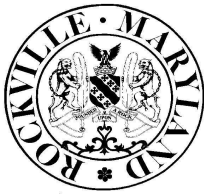
PO 850

1202250200

Purchase Order Date:

AUTHORIZED SIGNATURE

72 HOUR LLC dba NATIONAL AUTO
FLEET GROUP



Purchase Order

Page 4

City of Rockville

Purchasing 240-314-8430 Fax 240-314-8439

Tax Exempt Number: Maryland - 3000123-5; Federal - 52-6001573

PURCHASE ORDER NUMBER MUST BE REFERENCED ON ALL INVOICES

Ref:

PO Number:

PO 850

1202250200

Purchase Order Date:

C	A	- BUDGET ACCOUNT NOS -	**ACCOUNTING USE ONLY**
1	1	330 850 0803 0431	Amt. \$308,854.00

FOR CITY OF ROCKVILLE USE ONLY

I hereby certify that goods were received in good condition and/or services were satisfactorily performed.

PRINT FULL NAME

DATE

AUTHORIZED SIGNATURE

GRAND TOTAL: \$308,854.00



MAYOR AND COUNCIL Meeting Date: January 12, 2026

Agenda Item Type: CONSENT

Department: FINANCE

Responsible Staff: XIAOJING ZHANG

Subject

FY 2025 Annual Comprehensive Financial Report (ACFR), Independent Auditor Reports, and FY 2025 Popular Annual Financial Report (PAFR)

Department

Finance

Recommendation

Staff recommends the Mayor and Council receive the Fiscal Year 2025 Annual Comprehensive Financial Report (ACFR), Internal Control Letter, Fiscal Year 2025 Report on Single Audit, and Fiscal Year 2025 Popular Annual Financial Report (PAFR).

Discussion

ACFR and Independent Auditor Reports

The city's financial policies specify that, on an annual basis, a firm of independent Certified Public Accountants (CPA's) audit the city's financial statements, and that the auditor's opinion be included in the financial statements as required by Generally Accepted Accounting Principles (GAAP). An independent audit is essential to demonstrate the accountability of government officials' use of public resources and provides a basis for user acceptance of the audited financial statements.

The city's audit was conducted in conformity with Generally Accepted Auditing Standards (GAAS). These are the standards that a CPA must follow when auditing financial statements. In an independent audit, the CPA expresses an opinion as to whether the financial statements present fairly the financial position and results of operations for the year ended. The fiscal year 2025 audit report contains this unmodified opinion starting on page 13 of the ACFR, at the beginning of the financial section.

Attachment A, The Internal Control Letter, is a report from the auditors on internal controls and compliance based on their audit. Attachment B, The Report on Single Audit, is a compliance audit for entities receiving federal funding. There were no significant financial issues of concern with the fiscal year 2025 financial statements. There were no identified material weaknesses in the city's internal controls.

The city ended the fiscal year in a strong financial position, with positive fund balances and policy compliance for all governmental funds and positive net positions for all enterprise funds, except for the Parking Fund due to the outstanding garage debt. All the enterprise funds had positive cash balances.

The complete ACFR is available at

<https://www.rockvillemd.gov/wp-content/uploads/2025/12/Fiscal-Year-2025-ACFR.pdf>.

PAFR

The PAFR is designed to enhance transparency by making the financial information presented in the ACFR easier to read and understand. The PAFR reports on financial matters (i.e., budget, and financial results) without the technical jargon required in the ACFR and shares other helpful information about the City. The PAFR is not a replacement for the ACFR, but a supplementary document that can further assist members of the public in their review of the City government's financial operations.

The complete PAFR is available at

<https://www.rockvillemd.gov/wp-content/uploads/2025/12/Fiscal-Year-2025-PAFR.pdf>.

Mayor and Council History

Annually the City is required to produce basic financial statements and to conduct an independent financial audit. The previous audit was presented to the Mayor and Council in December 2024. The FY 2025 ACFR and FY 2025 PAFR were posted to the city's website in December 2025.

Boards and Commissions Review

The Financial Advisory Board reviews the city's financial reports as part of their annual work plan. The Board plans to review these reports in the first few months of calendar year 2026.

Attachments

Attachment A_The Internal Control Letter, Attachment B_The Report on Single Audit

**REPORT OF INDEPENDENT PUBLIC ACCOUNTANTS ON INTERNAL CONTROL OVER
FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN
AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH
*GOVERNMENT AUDITING STANDARDS***

Honorable Mayor, Members of the City Council, and City Management
City of Rockville, Maryland

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States (*Government Auditing Standards*), the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City of Rockville, Maryland (the City) as of and for the year ended June 30, 2025, and the related notes to the financial statements, which collectively comprise the City's basic financial statements, and have issued our report thereon dated October 30, 2025.

Report on Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements, we considered the City's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control. Accordingly, we do not express an opinion on the effectiveness of the City's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the City's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses or significant deficiencies may exist that were not identified.

Report on Compliance and Other Matters

As part of obtaining reasonable assurance about whether the City's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the financial statements. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.



Purpose of This Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the City's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the City's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Owings Mills, Maryland
October 30, 2025

SB + Company, LLC

CITY OF ROCKVILLE, MARYLAND

**Schedule of Expenditures of Federal Awards Together with
Reports of Independent Public Accountants**

For the Year Ended June 30, 2025

CITY OF ROCKVILLE, MARYLAND

**Schedule of Expenditures of Federal Awards Together with
Reports of Independent Public Accountants**

JUNE 30, 2025

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REPORT OF INDEPENDENT PUBLIC ACCOUNTANTS ON THE AUDIT OF THE FINANCIAL STATEMENTS

Honorable Mayor, Members of the City Council, and City Management
City of Rockville, Maryland

Opinions

We have audited the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City of Rockville, Maryland (the City), as of and for the year ended June 30, 2025, and the related notes to the financial statements, which collectively comprise the City's basic financial statements.

In our opinion, the basic financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information, of the City as of June 30, 2025, and the respective changes in financial position and, where applicable, cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.

We did not audit the financial statements of the blended component unit, Rockville Economic Development Inc. (REDI), which represent 2.21 percent, 2.05 percent, and 0.69 percent, of the assets, fund balance, and revenues, respectively, of the governmental funds. Those financial statements were audited by other auditors whose report thereon has been furnished to us, and our opinion, insofar as it relates to the amounts included for REDI, is based solely on the report of the other auditors.

Basis for Opinions

We conducted our audit in accordance with auditing standards generally accepted in the United States of America (GAAS) and the standards applicable to financial audits contained in *Government Auditing Standards* (GAS), issued by the Comptroller General of the United States. Our responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Statements* section of our report. The financial statements of REDI were not audited in accordance with GAS. We are required to be independent of the City and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the City's ability to continue as a going concern for twelve months beyond the financial statement date, including any currently known information that may raise substantial doubt shortly thereafter.

Auditor's Responsibility for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinions. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS and GAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal controls. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS and GAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal controls relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the City's internal controls. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the City's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal controls-related matters that we identified during the audit.

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis, Rockville Employee Retirement System – schedule of changes in the City's net pension liability and related ratios and schedule of City contributions and investment returns, Other Post-Employment Benefits Plan – schedule of changes in the City's net OPEB liability (asset) and related ratios and schedule of City contributions and investment returns, and the budgetary comparison schedule – general fund, as listed in the table of contents, be presented to supplement the basic financial statements. Such information is the responsibility of management and, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Supplementary Information

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the City's basic financial statements. The budgetary comparison schedule – debt service fund, combining balance sheet – nonmajor governmental funds, combining statement of revenues, expenditures, and changes in fund balances – nonmajor governmental funds, budgetary comparison schedule – nonmajor governmental funds, budgetary comparison schedule – enterprise funds, combining statement of fiduciary net position – pension and OPEB trust fund, and combining statement of changes in fiduciary net position - pension and OPEB trust fund and schedule of expenditures of federal awards, as required by Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* are presented for purposes of additional analysis and are not a required part of the basic financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements. The information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing



standards generally accepted in the United States of America. In our opinion, the supplementary information is fairly stated, in all material respects, in relation to the basic financial statements as a whole.

Other Information

Management is responsible for the other information included in the Annual Comprehensive Financial Report (ACFR). The other information comprises the Introductory and Statistical Sections but does not include the basic financial statements and our auditor's report thereon. Our opinions on the basic financial statements do not cover the other information, and we do not express an opinion or any form of assurance thereon. In connection with our audit of the basic financial statements, our responsibility is to read the other information and consider whether a material inconsistency exists between the other information and the basic financial statements, or the other information otherwise appears to be materially misstated. If, based on the work performed, we conclude that an uncorrected material misstatement of the other information exists, we are required to describe it in our report.

Other Reporting Required by Government Auditing Standards

In accordance with *Government Auditing Standards*, we have also issued our report dated October 30, 2025, on our consideration of the City's internal controls over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is solely to describe the scope of our testing of internal controls over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of internal controls over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the City's internal controls over financial reporting and compliance.

Owings Mills, Maryland
October 30, 2025

SB + Company, LLC

**REPORT OF INDEPENDENT PUBLIC ACCOUNTANTS ON INTERNAL CONTROLS
OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS
BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN
ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS***

Honorable Mayor, Members of the City Council, and City Management
City of Rockville, Maryland

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States (*Government Auditing Standards*), the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City of Rockville, Maryland (the City) as of and for the year ended June 30, 2025, and the related notes to the financial statements, which collectively comprise the City's basic financial statements, and have issued our report thereon dated October 30, 2025.

Report on Internal Controls over Financial Reporting

In planning and performing our audit of the financial statements, we considered the City's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control. Accordingly, we do not express an opinion on the effectiveness of the City's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the City's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses or significant deficiencies may exist that were not identified.

Report on Compliance and Other Matters

As part of obtaining reasonable assurance about whether the City's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the financial statements. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the City's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the City's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Owings Mills, Maryland
October 30, 2025



**REPORT OF INDEPENDENT PUBLIC ACCOUNTANTS ON COMPLIANCE FOR
EACH MAJOR FEDERAL PROGRAM AND ON INTERNAL CONTROLS OVER
COMPLIANCE IN ACCORDANCE WITH THE UNIFORM GUIDANCE**

Honorable Mayor, Members of the City Council, and City Management
City of Rockville, Maryland

Report on Compliance for Each Major Federal Program

Opinion on Each Major Federal Program

We have audited City of Rockville, Maryland's (the City) compliance with the types of compliance requirements identified as subject to audit in the U.S. Office of Management and Budget (OMB) *Compliance Supplement* that could have a direct and material effect on each of the City's major federal programs for the year ended June 30, 2025. The City's major federal programs are identified in the summary of independent public accountant's results section of the accompanying schedule of findings and questioned costs.

In our opinion, the City complied, in all material respects, with the compliance requirements referred to above that could have a direct and material effect on each of its major federal programs for the year ended June 30, 2025.

Basis for Opinion on Each Major Federal Program

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America (GAAS); the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States (*Government Auditing Standards*); and the audit requirements of Title 2 U.S. *Code of Federal Regulations* Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Our responsibilities under those standards and the Uniform Guidance are further described in the *Auditor's Responsibilities for the Audit of Compliance* section of our report.

We are required to be independent of the City and to meet our other ethical responsibilities, in accordance with relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion on compliance for each major federal program. Our audit does not provide a legal determination of the City's compliance with the compliance requirements referred to above.

Responsibilities of Management for Compliance

Management is responsible for compliance with the requirements referred to above and for the design, implementation, and maintenance of effective internal controls over compliance with the requirements of laws, statutes, regulations, rules and provisions of contracts or grant agreements applicable to the City's federal programs.

Auditor's Responsibilities for the Audit of Compliance

Our objectives are to obtain reasonable assurance about whether material noncompliance with the compliance requirements referred to above occurred, whether due to fraud or error, and express an opinion on the City's compliance based on our audit. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS, *Government Auditing Standards*, and the Uniform Guidance will always detect material noncompliance when it exists. The risk of not detecting material noncompliance resulting from fraud is higher than for that resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal controls. Noncompliance with the compliance requirements referred to above is considered material, if there is a substantial likelihood that, individually or in the aggregate, it would influence the judgment made by a reasonable user of the report on compliance about the City's compliance with the requirements of each major federal program as a whole.

In performing an audit in accordance with GAAS, *Government Auditing Standards*, and the Uniform Guidance, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material noncompliance, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the City's compliance with the compliance requirements referred to above and performing such other procedures as we considered necessary in the circumstances.
- Obtain an understanding of the City's internal controls over compliance relevant to the audit in order to design audit procedures that are appropriate in the circumstances and to test and report on internal controls over compliance in accordance with the Uniform Guidance, but not for the purpose of expressing an opinion on the effectiveness of the City's internal controls over compliance. Accordingly, no such opinion is expressed.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and any significant deficiencies and material weaknesses in internal controls over compliance that we identified during the audit.

Report on Internal Controls over Compliance

A *deficiency in internal controls over compliance* exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct noncompliance with a type of compliance requirement of a federal program on a timely basis. A *material weakness in internal controls over compliance* is a deficiency, or combination of deficiencies in internal controls over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected on a timely basis. A *significant deficiency in internal controls over compliance* is a deficiency, or a combination of deficiencies, in internal controls over compliance with a type of compliance requirement of a federal program that is less severe than a material weakness in internal controls over compliance, yet important enough to merit attention by those charged with governance.

Our consideration of internal controls over compliance was for the limited purpose described in the *Auditor's Responsibilities for the Audit of Compliance* section above and was not designed to identify all deficiencies in internal controls over compliance that might be material weaknesses or significant deficiencies in internal controls over compliance. Given these limitations, during our audit we did not identify any deficiencies in internal controls over compliance that we consider to be material weaknesses, as defined above. However, material weaknesses or significant deficiencies in internal controls over compliance may exist that were not identified.

Our audit was not designed for the purpose of expressing an opinion on the effectiveness of internal controls over compliance. Accordingly, no such opinion is expressed.

The purpose of this report on internal controls over compliance is solely to describe the scope of our testing of internal controls over compliance and the results of that testing based on the requirements of the Uniform Guidance. Accordingly, this report is not suitable for any other purpose.

Owings Mills, Maryland
December 12, 2025

SB & Company, LLC

CITY OF ROCKVILLE, MARYLAND

Schedule of Expenditures of Federal Awards For the Year Ended June 30, 2025

Federal Grantor/Pass Through Grantor/Program or Cluster Title	Federal Assistance Listing Number	Pass Through Entity Identifying Number	Federal Expenditures	Passed Through to Subrecipients
Department of Housing and Urban Development				
<u>Pass through Montgomery County:</u>				
<i>CDBG - Entitlement/Special Purpose Grants Cluster</i>				
Community Development Block Grant - Year 49	14.218	1108455	\$ 263,000	\$ -
<i>Total CDBG - Entitlement/Special Purpose Grants Cluster</i>			263,000	-
Total Department of Housing and Urban Development			263,000	-
Department of Justice				
Bulletproof Vest Partnership	16.607	2019-BUBX19042400	4,554	-
Interoperable Police Radio Communications Equipment	16.710	N/A	963,000	-
Total Department of Justice			967,554	-
Department of Transportation				
<u>Pass through Maryland State Highway Administration:</u>				
<i>FMCSA Cluster</i>				
Motor Carrier Safety Grant	20.218	AX077A9F	7,836	-
<i>Total FMCSA Cluster</i>			7,836	-
<u>Pass through MWCOG:</u>				
<i>Transit Services Programs Cluster</i>				
Enhanced Mobility Grant	20.513	Unknown	74,810	-
<i>Total Transit Services Programs Cluster</i>			74,810	-
Total Department of Transportation			82,646	-
Department of Health and Human Services				
<u>Pass through Montgomery County:</u>				
<i>Aging Cluster</i>				
Senior Nutrition Grant	93.045	Unknown	19,744	-
<i>Total Aging Cluster</i>			19,744	-
Total Department of Homeland Security			19,744	-
Department of Homeland Security				
<u>Pass through Montgomery County:</u>				
State Homeland Security Grant	97.067		13,889	
Emergency Operations Center	97.047	N/A	7,358	-
Rockville Flood Resiliency Plan	97.029	N/A	309,233	-
Total Department of Homeland Security			330,480	-
Total Expenditures of Federal Awards			\$ 1,663,424	\$ -

The accompanying notes are an integral part of this schedule.

CITY OF ROCKVILLE, MARYLAND

Notes to the Schedule of Expenditures of Federal Awards For the Year Ended June 30, 2025

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

All federal grant operations of the City of Rockville, Maryland (the City) are included in the scope of the Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (the Single Audit or Uniform Guidance). The Single Audit was performed in accordance with the provisions of the Office of Management and Budget (OMB) Compliance Supplement (the Compliance Supplement). Compliance testing of all requirements, as described in the Compliance Supplement, was performed for the major grant program noted below. The programs on the accompanying schedule of expenditures of federal awards (the Schedule) represent all federal award programs and other grants with fiscal year 2025 cash or non-cash expenditure activities. For our Single Audit testing, we tested the federal award program with 2025 cash and non-cash expenditures to ensure coverage of at least 40% of federally granted funds. Actual coverage was 58%.

Identification of major program:

Major Program	Federal Assistance Listing Number	Federal Expenditures
Interoperable Police Radio Communications Equipment	16.710	\$ 963,000

Expenditures reported on the Schedule are recognized following the cost principles contained in the Uniform Guidance, wherein certain types of expenditures are not allowable or are limited as to reimbursement. The City has elected not to use the 10 percent de minimis indirect cost rate allowed under the Uniform Guidance.

2. BASIS OF PRESENTATION

The accompanying Schedule includes the federal award activity of the City and is presented on the accrual basis of accounting. The information in the Schedule is presented in accordance with the requirements of the cost principles contained in the Uniform Guidance.

CITY OF ROCKVILLE, MARYLAND

Schedule of Findings and Questioned Costs For the Year Ended June 30, 2025

Section I - Summary of Independent Public Accountants' Results

Financial Statements

Type of Independent Public Accountant' report issued:	Unmodified
Internal controls over financial reporting:	
Material weakness(es) identified?	No
Significant deficiency(ies)?	None Reported
Noncompliance material to the financial statements noted?	No

Federal Awards

Type of Independent Public Accountant' report issued on compliance for major programs	Unmodified
Internal controls over major programs:	
Material weakness(es) identified?	No
Significant deficiency(ies)?	None Reported
Any audit findings disclosed that are required to be reported in accordance with Section 200.516(a) of Uniform Guidance?	No

Major Program	Federal Assistance Listing Number	Federal Expenditures
Interoperable Police Radio Communications Equipment	16.710	\$ 963,000
Threshold for distinguishing between Type A and B programs		\$ 750,000
Does the City qualify as a low risk auditee?		No

Section II – Financial Statement Findings

None noted.

Section III – Federal Award Findings

None noted.

CITY OF ROCKVILLE, MARYLAND

**Schedule of Prior Year Findings and Questioned Costs
For the Year Ended June 30, 2025**

The City spent less than \$750,000 during the year ended June 30, 2024, and a single audit was not required.



MAYOR AND COUNCIL Meeting Date: January 12, 2026

Agenda Item Type: CONSENT

Department: CITY CLERK/DIRECTOR OF COUNCIL OPERATIONS OFFICE

Responsible Staff: SARA TAYLOR-FERRELL

Subject

Approval of the Memorandum of Understanding (MOU) between the City of Rockville and Montgomery County Board of Elections for the use of the Drop Box located at City Hall.

Department

City Clerk/Director of Council Operations Office

Recommendation

Staff recommends the Mayor and Council approve the attached Memorandum of Understanding (MOU) between the City of Rockville and the Montgomery County Board of Elections for the use of the City's drop box located at City Hall during the County election cycle.

Discussion

Montgomery County Board of Elections has requested the use of the City's drop box located at City Hall since 2019. As a courtesy, no fees are associated with this request.

The drop box is under the custody of the City Clerk. Upon receiving a request, the City Clerk's Office coordinates the installation, implements security measures, including 24-hour recorded video surveillance, and maintains the chain of custody for the keys.

Once the MOU has been fully executed and the keys have been transferred to Montgomery County, the City is no longer in possession of the Drop Box. At that point, the drop box becomes the responsibility of the Montgomery County Board of Elections for the duration of the County election cycle.

Mayor and Council History

This is the first time this agenda item has been brought before the Mayor and Council.

Public Notification and Engagement

Allowing the County to use the City's drop box located at City Hall supports continued voter education, reinforcing to City and County residents that this location may be used for municipal, county, state, and federal elections.

Next Steps

Upon approval by the Mayor and Council, the attached MOU will be signed by the City Manager on behalf of the Mayor and Council and by the City Attorney for legal sufficiency.

Attachments

MOU MoCo Board of Elections and City of Rockville Signed 12302025

**MEMORANDUM OF UNDERSTANDING REGARDING THE
INSTALLATION AND USE OF A DROP BOX FOR THE 2026
PRIMARY AND GENERAL ELECTIONS**

This Agreement is made as of this 30 day of DECEMBER 2025
by and between the Montgomery County Board of Elections (hereinafter referred
to as "the Board") and the City of Rockville, a municipal corporation of the State
of Maryland (hereinafter referred to as the "City").

Recitals

Whereas, the State Board of Elections has directed that drop boxes be installed
throughout the State; and

Whereas, the City acknowledges the benefit to the public welfare of consistent
placement of drop box locations for federal, state, and local elections and the City does
not object to the request of the Montgomery County Board of Elections for use of the
City's drop box for the 2026 Primary Election and the 2026 General Election on the
following terms and conditions.

NOW, THEREFORE, it is agreed by and between the parties as follows:

I. A. Installation and Cost for the Drop Box.

1. At the Board's expense, the City's drop box will be
reinstalled at City Hall, 111 Maryland Avenue, Rockville,
Maryland 20850 (upper parking lot) approximately six to
seven weeks before the Primary Election Day. Voters will
be allowed to drop off their ballots until 8:00 p.m. on
Election Day - June 23, 2026. Ballots may be deposited in

the outdoor box without regard to City Hall business hours.

2. The drop box will remain locked after 8:00 p.m. on June 23, 2026, until it is determined that voters can begin depositing their ballots for the 2026 General Election (approximately six to seven weeks before the 2026 General Election Day). At that time, the drop box will be reopened for use and will remain open until November 3, 2026, at 8:00 p.m.
3. The Board shall be responsible for repairing any damage to the drop box and shall be responsible to return the drop box to the City in the same condition as when installed, reasonable wear and tear excepted.
4. The City of Rockville will provide a set of keys to the drop box to the Montgomery County Board of Elections and will maintain and securely store its own set of keys to the drop box. The City will cooperate with the Board of Elections in documenting the chain of custody of all keys and other materials that are transferred between the City and the Board of Elections. The Board will be responsible for all costs associated with the loss of any keys to the drop box. Contact information for keys, chain of custody, and any questions related to operation of the drop box to the City as follows:

Sara Taylor-Ferrell
City Clerk/Director of Council Operations
111 Maryland Avenue
Rockville, MD 20850
(240) 314-8280
sferrell@rockville.md.gov

5. The Board shall be exclusively responsible for daily pick up and transportation of voted ballots to the Board.
6. The drop box will be under twenty-four (24) hour, seven (7) days per week video surveillance by the City Police Department. The City agrees to retain the video footage for twenty-two (22) months after certification of the election and will make footage available to the Board in a reasonable time upon request. Contact information for emergencies or requests for footage as follows:

Jason West
Chief of Police
City of Rockville Police
2 W. Montgomery Avenue
Rockville, MD 20850
420-314-8900
publicsafety@rockvillemd.gov

II. Additional Conditions.

1. The City authorizes the Board to establish a "no electioneering" zone during voting in accordance with

federal and state election laws.

2. The Board agrees to indemnify and save harmless the City, its employees and its agents from any loss, damages and other expenses suffered or incurred by the City by reason of the Board's negligence or willful misconduct in the use of the City's drop box and the conduct of voting operations at City Hall for the duration of this Agreement.
3. Nothing in this Agreement shall be construed as a waiver of any condition precedent under the Local Government Tort Claims Act and/ or the Maryland Tort Claims Act or a waiver of any defenses or immunities on behalf of City and Board.
4. Any obligation or liability of the City arising in any way from this Agreement is subject to, limited by, and contingent upon the appropriation and availability of funds, as well as the damage caps and notice requirements stated in the Local Government Tort Claims Act.
5. Prior to the execution of this Agreement and at all times during its effectiveness, the Board agrees to maintain its self insurance coverage in the Montgomery County Self-Insurance Program, including coverage for general and automobile liability and Workers' Compensation as required by law.

6. Nothing herein shall be deemed to create a property interest in the Board.

7. This Agreement will expire December 1, 2026.

IN WITNESS WHEREOF, the Board and the City have caused this Agreement to be executed in duplicate by its following authorized officer or agent:

[Signatures on following page]

For the City of Rockville:

By: _____
Signature of authorized office or agent

Printed name: Jeff Mihelich

Title: City Manager

Date: _____, 2025

Reviewed for legal sufficiency

Robert Dawson, City Attorney

For the Board:

By: Boris Brajkovic
Signature of authorized office or agent

Printed name: Boris Brajkovic

Title: Election Director

Date: 12/30, 2025



MAYOR AND COUNCIL Meeting Date: January 12, 2026

Agenda Item Type: ADOPTION

Department: CPDS - DEVELOPMENT REVIEW

Responsible Staff: SHAUN RYAN

Subject

Adoption of an Ordinance to Amend Chapter 10.5 of the Rockville City Code, entitled “Forest and Tree Preservation,” to Bring the Chapter into Conformance with Current State Law and Make Various Modifications to Improve the Administration of the Chapter

Department

CPDS - Development Review

Recommendation

Staff recommends the Mayor and Council adopt the proposed amendments to Chapter 10.5 of the City Code.

Change in Law or Policy

The proposed ordinance would amend the City’s Forest and Tree Preservation Ordinance, codified as Chapter 10.5 of the City Code.

Discussion

Attached Ordinance

Three versions of the proposed legislation are attached. Attachment 1 is the last version of the ordinance proposed for adoption; Attachment 2 shows the proposed legislation in redline, compared to the current Forest and Tree Preservation Ordinance; and Attachment 3 is a redlined comparison of the current proposed legislation and the version of the legislation from September 30, 2024, using the legal blackline function in Microsoft Word.

Recent Events

On September 30, 2024, Mayor and Council discussed proposed amendments to Chapter 10.5 of the City Code—known as the Forest and Tree Preservation Ordinance (FTPO)— and provided instructions to staff. Following the meeting, staff revised the FTPO to address the Mayor and Council’s recommendations, which included input from the public comments (Attachment 4). These recommendations and their associated revisions are itemized and summarized in the sub-section below entitled “Latest Updates to Chapter 10.5.”

Following these revisions, staff was required to submit the updated FTPO to the Maryland Department of Natural Resources (MDNR) to ensure its compliance with state law. To support state-wide programs in reaching compliance prior to submission, MDNR developed a draft

model ordinance as well as a revised State Technical Manual, both of which reflected changes in the state's Forest Conservation Act resulting from the passage of Senate Bill 526 (Attachment 5) and House Bill 1511 (Attachment 6). MDNR therefore recommended that state-wide programs not submit their updated ordinance for review until after the draft model ordinance and the revised State Technical Manual were released. MDNR released the updated State Technical Manual in January 2025 and the draft model ordinance in May 2025.

Following the release of the draft model ordinance, city staff reviewed and made necessary edits to the FTPO to ensure compliance. Staff submitted the updated FTPO to MDNR on June 20, 2025. MDNR provided comments to staff on the updated FTPO on September 30, 2025. Staff addressed these comments (outlined below) and returned them to MDNR on October 20, 2025. On October 24, 2025, MDNR deemed the City of Rockville's updated FTPO compliant with state law. Staff is now returning to Mayor and Council for adoption of the amended FTPO.

Latest Updates to Chapter 10.5

Updates Based on MDNR Comments

The following are the comments provided by MDNR to staff in September 2025 as well as staff's responses submitted on October 20, 2025:

- **Sec. 10.5-12.d** - The use of "substantially" regarding compliance with this chapter may be in conflict with the regulations stated in COMAR 08.19.04.02. Removal of the word "substantially" is recommended.
 - Staff removed "substantially."
- **Sec. 10.5-13.d.3.e** - Requiring adherence to items in the Forest Conservation Manual may be in conflict with state law. It is recommended that legal counsel be sought regarding this requirement.
 - Staff discussed this issue with the City Attorney's Office and have decided to maintain the existing language regarding adherence to the Forest Conservation Manual. Staff will work with the City Attorney's Office to ensure that any future updates to the Forest Conservation Manual are consistent with state law.
- **Sec. 10.5-21.b.7** - The use of "certain" regarding specimen trees implies that some specimen trees would not be protected by this ordinance. It is recommended that the word "certain" be removed.
 - Staff removed the term "certain" from this section.
- **Sec. 10.5-21.d** - Given that the term "priority trees" is not defined in the state statute, it is recommended that it be defined within the "Definitions" section under this chapter.
 - Staff removed the term "priority trees" from the FTPO.
- **Sec. 10.5-22.c** - Reforestation requirements at the state level no longer incorporate language of "thresholds." State statute requires a 1:1 ratio for reforestation anywhere forest is cleared, as detailed in HB1511. It is recommended that changes to this ordinance be made such that they meet or surpass state requirements, as required in COMAR 08.19.02.02. Further reference to this section can be seen throughout the chapter in question and should be updated accordingly to comply with state law.

- Staff finds that Rockville’s use of thresholds ensures compliance with state law at a minimum, and more rigorous standards in certain cases. Specifically, Rockville matches Maryland’s reforestation requirements for clearing above the conservation threshold in priority and non-priority retention areas and is more restrictive than state law for clearing below the conservation threshold.
- **Sec. 10.5-24.a** - The stated prioritization sequence does not align with Natural Resource Article §5–1607. It is recommended that NRA §5–1607 be consulted and that this and all other relevant sections be revised to comply.
 - Staff incorporated a provision for off-site planting to comply with NRA §5–1607.
- **Sec. 10.5-24.c** - It is recommended that this section specify that the use of funds gained through Fee-In-Lieu payments may only be used for “Park Maintenance” items after all mitigation requirements have been met, as per COMAR 08.19.04.09.
 - Staff confirmed that the mitigation requirements are met through the Forest Conservation Fund. The Park Maintenance Fund is in excess of funds required to meet the mitigation requirements.

Updates Based on Mayor and Council Discussion

The Mayor and Council discussed and provided instructions to staff on the proposed amendments to the FTPO on September 30, 2024. Staff also received public comments and testimony in association with the public hearing. A summary of Mayor and Council’s discussion and instructions as well as public testimony is provided below, along with staff responses.

1. **Recommendation:** Codify a minimum percentage of native species required for plantings made under Forest Conservation Plans.
Response: Public comments and Mayor and Council expressed an interest in codifying a minimum percentage of native species required for trees planted under Forest Conservation Plans. Based on this feedback, staff revised the draft to require that at least 80% of trees planted to meet forest conservation must be native. This provides substantial ecological and environmental benefits to the city while providing flexibility that addresses the concerns raised by staff in the attached memo (Attachment 7).
2. **Recommendation:** Incorporate a native species definition.
Response: A native species definition is necessary to direct what species will be planted under the newly proposed native species requirement. Staff determined that a native trees list would be bound to the “Mid-Atlantic” region and that the list would be drawn from trusted scientific sources.
3. **Recommendation:** Address the benefits of bolstering biodiversity in the city.
Response: Mayor and Council noted that, in the context of the proposed native tree species requirements, biodiversity is an important consideration that adds value to the city landscape. To that end, staff incorporated language requiring plantings to be met using a diversity of tree species to the extent possible. This will ensure that plantings provide for biodiversity to promote resilience and ecological integrity.
4. **Recommendation:** Replace “Code Administrator” with a term that reflects the expertise we expect of those who administer the FTPO.

Response: Staff determined that “Forestry Official” is an appropriate designation and has defined the term in the FTPO to mandate a qualified professional. Under the Forest Conservation Act, a qualified professional is one of three designations permitted to prepare Forest Stand Delineations and Forest Conservation Plans. Certification as a qualified professional requires certain educational and work-experience criteria in addition to completing a DNR approved forest conservation course.

5. Recommendation: Extend the required number of days for staff to post a public notice prior to the removal of a priority retention forest or portion thereof.

Response: Staff extended the public notice requirement from 20 to 30 days.

6. Recommendation: Investigate providing an FTPO exemption for cemeteries.

Response: Staff discussed this recommendation with MDNR and the City Attorney’s Office. While it was determined that the state forest conservation law does not permit cemeteries to be exempt from forest conservation requirements altogether, the new option for offsite planting included in the current draft ordinance provides an option for cemeteries with limited space to comply with the FTPO.

Forest Conservation Manual

Staff anticipate amending the City’s Forest Conservation Manual shortly after the adoption of the FTPO to ensure compliance with the amended ordinance. All content within the Forest Conservation Manual must follow from and act in accordance with the requirements of the FTPO. Staff have included language within the amended ordinance delegating the authority to approve the Forest Conservation Manual to the City Manager. Staff finds that changes to this type of technical manual is most appropriately assessed and approved by the City Manager.

Abridged Summary of the August 5, 2024, Staff Report

Background

The original impetus for amending the FTPO was to comply with recent changes to state law. In 2023, the State Legislature passed Senate Bill 526, also known as the Forest Preservation and Retention Act, to amend parts of the State Natural Resource Articles 5-1601 through 5-1613, also known as the Maryland Forest Conservation Act (FCA), enacted in 1991. SB 526 was passed in an ongoing effort to reduce the gradual loss of forest and tree canopy observed in the State since the original passage of the FCA in 1991. SB 526 instituted a variety of changes that are intended to increase forest and tree canopy at a statewide level (and are to be measured every four years).

SB 526 provides flexibility for certain types of development and priority funding areas (PFA’s), per the State Finance and Procurement Article S-5-7B-08. According to the Maryland Department of Planning, “PFA’s are existing communities and places designated by local governments indicating where they want state investment to support future growth.” The entire corporate limits of the City of Rockville are located within a PFA.

Chapter 10.5 of the City Code, the Forest and Tree Preservation Ordinance (FTPO), is the city’s locally adopted (1992) forestry ordinance that facilitates compliance with the FCA. Local

programs are authorized to be stricter than the FCA, but they cannot be less stringent; the FTPO is stricter than FCA in several respects. Most relevant to the section at hand, SB 526 altered or made additions to the FCA that required the city to amend its FTPO. They are discussed below.

Proposed FTPO Amendments Related to Senate Bill 526

Staff has outlined the five principal changes to the FCA, enacted through SB 526, via condensed bulleted points below. Each principal change is followed by staff's corresponding amendment to the FTPO.

- *Exemptions.* SB 526 introduced new exemptions for some or all requirements of the FCA (e.g., transit-oriented development, solar photovoltaic facilities, etc.)
 - Staff has proposed to adopt the new FCA exemptions.
- *Reforestation.* SB 526 made more stringent requirements for reforestation within PFA's (½:1 reforestation rate for all forests cleared and 1:1 for all priority retention areas).
 - Staff has proposed to adopt the new FCA reforestation rates.
- *Priority Retention Areas.* SB 526 has expanded the criteria that qualify certain areas as priorities for retention (e.g., forests in urban areas, intermittent streams and their buffers, etc.)
 - Staff has proposed to adopt the expanded criteria for priority retention areas.
- *Public Notice.* SB 526 now requires public notice no less than 20 days prior to the approval of a forest conservation plan that authorizes the clearing of priority retention areas.
 - Staff has proposed a 30-day public notice requirement for the FTPO.
- *Judicial Review.* SB 526 outlines the ability to petition for a judicial review of an approved forest conservation plan approved within the last 30 days.
 - Staff proposes clarifying the process for judicial review of an approved forest conservation plan in the FTPO.

Other Proposed FTPO Amendments

In the process of amending the FTPO to comply with SB 526, staff recommended changes to improve the administration of the FTPO. These amendments were designed to increase tree canopy and are consistent with the city's historical prioritization of tree preservation and environmental stewardship. Staff's proposed amendments also further the action items outlined in the FAST (Faster, Accountable, Smarter, Transparent) initiative (Attachment 8), which was endorsed by the Mayor and Council in 2018. The following amendments improve the administration of the FTPO, which improves outcomes for the city, applicants, and residents, as well as supports appropriate development in the city. For a complete review of the proposed amendments to the FTPO, see Attachment 2.

- *Defined Terms.* Staff has proposed changes to certain defined terms in the FTPO.
 - "Covered approval" is proposed to functionally replace and incorporate both "covered permit" and "covered activity".

- The definition of “street tree” will be expanded to include trees planted within private roads. This is intended to close a loophole that unintentionally incentivized the creation of private streets by allowing increased onsite planting credit.
 - “Single dwelling unit residential lot” is proposed to be replaced with “single dwelling unit.” The definition will encompass vacant lots. This will allow the improvement of a vacant lot with a dwelling unit via a simplified tree save plan in lieu of a Forest Stand Delineation, Forest Conservation Plan, and associated legal documents.
 - *FCA Exemptions.* Staff is proposing to add exemptions that existed within the FCA prior to updates from SB 526 (e.g., routine maintenance in public utility rights-of-way, stream restoration projects, etc).
 - *New Exemption.* Staff is proposing an exemption from Natural Resource Inventory and Forest Stand Delineation (NRI/FSD) for applications of the site plan, project plan, or amendments thereto that do not require a sediment control permit or impact the critical root zones of any significant trees. This is intended to eliminate the need for an NRI/FSD in the event of an application that proposes no significant disturbance and does not impact any significant trees.
 - *Significant Tree Replacement.* Current replacement requirements allow trees below 12” in diameter at breast height (DBH) to be removed without replacement. This results in the removal of valuable trees without replacement. Staff is proposing to amend this standard to require replacement plantings for trees removed at 6” DBH or greater with one new tree required per each tree removed.
 - *Fee-in-lieu Funds.* Staff is proposing to expand the language regarding the use of funds in the Park Maintenance Fund to include the planting of trees within the public right-of-way. This will allow the city greater flexibility with the use of fee-in-lieu funds while continuing to ensure that the funds are used to plant trees.
 - *FAST Initiative.* Staff finds the following additional amendments to the FTPO are consistent with the FAST charter (Attachment 8) that was endorsed by the Mayor and Council in 2018.
 - Continue to encourage the protection of trees on lots and replace the Natural Resource Inventory and Forest Stand Delineation requirements with a simplified Single-Family Home Tree Save Plan if confirmed as needed by city staff.
 - While encouraging the retention of existing trees, require a minimum of three trees per lot for all new detached single-family homes, both on vacant lots and teardown/rebuilds.
 - For minor alterations, a Natural Resource Inventory and Forest Stand Delineation shall not be required.
 - For Site Plans and Site Plan Amendments, establish independent requirements for when an NRI/FSD is required.
 - Deduct the area of right-of-way dedicated to the city from the total tract area to adjust Minimum Tree Cover requirements.
-

Equity

This ordinance will increase forest conservation and individual tree replacement requirements throughout the City of Rockville. Increased forest cover and tree canopy will improve equity by ensuring ecosystem services and other societal benefits derived from forests and trees are readily available to everyone.

Environment

This ordinance will increase forest conservation, tree replacement, as well as provide additional protection for priority retention areas. These elements will yield a positive outcome for the environment by ensuring forests, tree canopy, and environmentally sensitive resources remain protected and intact.

Economy

This ordinance will increase forest conservation, tree replacement, as well as provide additional protection for priority retention areas. Forests, tree canopy, and sensitive environmental features such as wetlands and stream buffers are associated with positive economic outcomes. Forests and trees provide direct and indirect benefits such as reducing heating and cooling costs, improved air quality, mitigate stormwater runoff, prevent erosion, and much more. These benefits have considerable economic value.

Mayor and Council History

Amendments to Chapter 10.5 of the City Code were last adopted on July 16th, 2007.

May 6, 2024 - Staff briefed the Mayor and Council on the proposed amendments to the FTPO. The Mayor and Council introduced the ordinance on that evening. The Mayor and Council instructed staff to return for a public hearing to garner public input.

At the briefing, the Mayor and Council inquired about the use of native and non-native tree species throughout the City. In response to that inquiry, Community Planning and Development Services (CPDS) worked with Recreation and Parks (RPD) to author a memo that summarizes the topic as it relates to various forestry requirements in the City.

August 5, 2024 - Mayor and Council held the requested public hearing, and public feedback was received both at the meeting and in writing as previously discussed.

September 30, 2024 - Mayor and Council held a public meeting to provide discussion and instructions to staff on proposed revisions (summarized at the beginning of the report). Following this meeting, staff addressed these proposed revisions in anticipation of submitting the amended FTPO to MDNR for review.

Public Notification and Engagement

In addition to posting this item on the Mayor and Council's agenda, staff has performed public outreach via the following:

- City of Rockville’s Development Watch Newsletter
- Rockville Reports
- Briefing to the Mayor and Council
- Public Hearing at the Mayor and Council
- Briefing to the Environment Commission
- Briefing to the Park Advisory Board
- E-mail notification to Homeowners Associations
 - Including an opportunity for feedback and discussion
- Virtual community forum sessions
 - Staff conducted two virtual community forum sessions including a staff presentation and a Q&A session. The first session was held on the evening of May 2, 2024, at 7:00 PM. The second session was held on the evening of May 29, 2024, at 7:00 PM. All interested parties were welcome to attend either (or both) sessions. A total of seven (7) people attended the virtual sessions.
- Written Notice
 - At the briefing to the Mayor and Council on May 6, 2024, staff were instructed to provide written notice to property owners that may be particularly affected by the proposed amendments. Staff provided written notice of the public hearing to large, forested (partially and totally) properties within the city. Notices were sent more than 2-weeks in advance of the public hearing.
- Newspaper notice
 - Newspaper notice was provided in advance of the public hearing in accordance with city standards.
- Reforest Rockville provided written comments to the city. Staff have responded to the comments (reference August 5, 2024 staff report), including a memo authored by CPDS and RPD that discusses and evaluates the topic of the master street tree plan and its treatment of native and “near-native” trees.

Boards and Commissions Review

Planning Commission

While not required by the City Code, staff briefed the Planning Commission on the proposed amendments to the FTPO on March 27, 2024. Commissioners discussed the proposed amendments, with interest and questions on the following topics:

- Why is the definition of street tree being revised?
 - By expanding the current definition of street trees to include trees planted within private roads, developers would be subject to the same limitations on forest conservation credit for private street tree plantings that currently exist for street trees planted in the public right of way. Staff find this solution will close an unintentional loophole that encouraged the development of private roads, contrary to best practice.
- Why expand significant trees down to 6” DBH?

- By expanding the definition of significant trees to include trees within the limits of disturbance down to 6" DBH, developers will be required to replace such trees at a 1:1 ratio, resulting in a more sustainable practice.
- How will the revised reforestation requirements be implemented?
 - Staff further articulated the new reforestation requirements within SB 526 and how they will impact the FTPO. As a PFA, the city will be subject to a ½:1 reforestation ratio (1/2 acres planted for every 1 acre removed).
 - Staff is proposing to maintain the current reforestation rate in the FTPO for clearing below the forest conservation threshold, which is 3:1 (3 acres planted for every 1 acre removed).
 - Reforestation within the city occurs on the subject property/s under development. In the event reforestation cannot be achieved on-site, the applicant may submit justification for a fee-in-lieu payment, subject to staff review, per the criteria in Chapter 10.5-24.
- Is detailed mapping depicting properties affected by stream buffers available to applicants?
 - While priority retention areas are expanded to include stream buffers, it has long been the practice of the city, consistent with the Environmental Guidelines, to place a priority on the preservation of such environmentally sensitive areas.
 - Staff is unaware of any mapping that specifically outlines potential stream buffers. Staff will consider this need in the development of future resources for applicants.
 - Staff notes that a combination of various maps available on the city's webpage could assist applicants in determining if their property may contain stream buffers.
- Will the minimum lot tree requirement consider smaller lots?
 - The proposed lot tree requirement will subject new single dwelling units as well as single dwelling units undergoing a major renovation that disturbs more than 50% of the floor area to a minimum lot tree requirement, which will be further articulated in the Forest Conservation Manual.
 - Similar to the lot tree requirement in Chapter 25.21.21 of the Zoning Ordinance, staff anticipates taking the size of the subject lot into account when applying a minimum requirement.
- Does staff anticipate an increase in requests for waivers due to proposed amendments?
 - Staff does not anticipate any increase in requests for waivers from the provisions of the FTPO. Traditional waivers are not available to the requirements of the FTPO.
- Has staff considered creating a single fund for fee-in-lieu payments?
 - Staff is currently proposing to maintain two funds (the forest conservation fund and the park maintenance fund) for fee-in-lieu payments. While a single combined fund may be an option, staff seeks to amend this process as little as possible, with the underlying intent being to increase flexibility between funds to increase the resources available for street tree plantings in the city.

Environment Commission

Staff attended the city's Environment Commission meeting on March 7, 2024. Staff provided a presentation outlining SB 526 as well as the anticipated amendments to the FTPO.

The presentation resulted in a productive discussion on a variety of topics that will be taken under advisement as staff finalizes a draft amendment of the FTPO. Such topics included but were not limited to the following:

- Backstory to SB 526
 - Staff articulated that a gradual loss of forest observed at the State level was the primary focus for SB 526.
- Solar and Trees
 - The commission inquired how the proposed amendments to the FTPO consider the balance between solar technology and the need for trees.
 - Staff explained that SB 526 has an exemption for solar photovoltaic facilities, which have yet to be defined by the State. Staff expect a definition to focus primarily on energy-generating facilities of farms.
- Maintain a simple, transparent process for the removal of dead, dying, and hazardous trees.
 - Staff explained that nothing within the proposed amendments would complicate the process for individual tree removal based on qualifying criteria.
- The city's status as a Tree City USA
 - Staff recognize the importance the city has placed on tree canopy within the city over the years. Staff find the proposed amendments will continue that tradition of environmental stewardship.
- Current reforestation practices
 - Staff articulated the current reforestation practices under the presently adopted FTPO.
- Proposed reforestation practices
 - Staff articulated the proposed reforestation practices under SB 526 and how they will be implemented through the FTPO (as outlined in the report).
- Priority Funding Areas
 - Staff discussed the basis for a priority funding area, as designated by the State Finance and Procurement Articles.

Park Advisory Board

Staff briefed the Park Advisory Board on the proposed amendments to Chapter 10.5 at their meeting on May 22, 2024. The members of the Board had general inquiries about the nature of the amendments, as well as SB 526.

The Board inquired about the need to amend the fee-in-lieu funds (forest conservation fund and park maintenance fund) to ensure the Recreation and Parks Department has sufficient funding allocated towards planting and maintaining the city's street trees. Staff articulated the

purpose of each of the funds, and the authorized uses of monies within each fund, per the current language in Chapter 10.5, below:

- (b) The City may use funds from the City Forest Conservation Fund for those purposes authorized by COMAR 08.19.02.02(I). Funds shall not be used to plant or maintain trees on single dwelling unit residential lots.
- (c) The City may use the funds from the Park Maintenance Fund for the purposes of installing, maintaining, and replacing trees, shrubbery, and other landscaping on City-owned parkland. Maintenance may include control and eradication of invasive/exotic plants. Funds shall not be used for the installation, maintenance, or replacement of any hardscape, except to the extent that such hardscape is deemed by the City to be necessary to protect and preserve plant material.

The current language (above) limits the use of resources in the park maintenance fund. After collaboration with RPD, staff are recommending new language that will permit the use of park maintenance funds for the planting of public street trees. This will provide RPD flexibility within the fund, resulting in the effective management of those funds to meet the city's needs.

Next Steps

Following adoption of the proposed ordinance, it will become effective immediately. Staff will notify the community of the FTPO adoption through various means such as the city website, Rockville Reports, and the Development Watch Newsletter. Staff will immediately begin the process of updating the Forest Conservation Manual to reflect the updated ordinance.

Attachments

Attachment 1: FTPO Ordinance, Attachment 2: Redlined Proposed Ordinance, Attachment 3: Redlined Comparison, 9.30.24 and Proposed Ordinance, Attachment 4: Public Comments, Attachment 5: SB 526, Attachment 6: HB 1511, Attachment 7: Native Species Memo, Attachment 8: FAST Charter

ORDINANCE NO. _____

ORDINANCE: To Amend Chapter 10.5 of the Rockville City Code, entitled "Forest and Tree Preservation," to Bring the Chapter into Conformance with Current State Law and Make Various Modifications to Improve the Administration of the Chapter

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND that Chapter 10.5 of the Rockville City Code, entitled "Forest and Tree Preservation," be amended as follows:

Chapter 10.5
FOREST AND TREE PRESERVATION

ARTICLE I. – IN GENERAL

Sec. 10.5-1. Purpose.

The purpose of this ~~chapter~~ Chapter is to:

* * *

- (5) Meet the requirements of ~~the Natural Resources Article~~, Sections 5-1601 through 5-1613 of the Natural Resources Article ~~the Annotated Code of Maryland~~.

Sec. 10.5-2. Scope.

Except as otherwise provided, this ~~chapter~~ Chapter applies to all applications for a ~~covered permit or covered approval~~ as defined in section 10.5-5 of this ~~chapter~~ Chapter made on or after January 1, 1993.

Sec. 10.5-3. Interpretation.

- (a) All references in this ~~chapter~~ Chapter to provisions of the Annotated Code of Maryland shall refer to the provisions as they currently exist and as they may be amended.

* * *

- (c) The provisions of this ~~chapter~~ Chapter shall be interpreted and applied in conjunction with the ~~specifications and clarifications contained in the Forest Conservation Manual. In the event of any conflict between the provisions of this Chapter and those of the Forest Conservation Manual, this Chapter shall govern.~~

Sec. 10.5-4. Administration.

- (a) *The Mayor and Council.* The Mayor and Council shall:
- (1) Establish by resolution fees to cover the cost of administering this ~~chapter~~ Chapter.;
 - (2) ~~Adopt by resolution a Forest Conservation Manual which shall meet the minimum requirements of the State Forest Conservation Manual and shall include, but not be limited to:~~
 - a. ~~Standards for preparing and evaluating a Forest Stand Delineation;~~
 - b. ~~Standards for preparing and evaluating a Forest Conservation Plan, including priorities for retention, reforestation, and afforestation;~~
 - c. ~~A recommended tree species list;~~
 - d. ~~Forest and tree protective measures to be provided prior, during and after clearing or construction;~~
 - e. ~~Other standards, requirements, and clarifications consistent with this chapter.~~
- (b) *The City Manager.* The City Manager, ~~through the City Forester and other authorized designees~~ shall:
- (1) Designate a Forestry Official to interpret and administer the provisions of this Chapter ~~Administer the provisions of this chapter and the City's Conservation Manual.;~~
 - (2) Prepare and submit the reports ~~to the Senate Environmental Affairs Committee and the House Environmental Matters Committee~~ required by Natural Resources Article, Section section 5-1613 of the Natural Resources Article ~~Annotated Code of Maryland.;~~

- (3) Promulgate and keep current a Forest Conservation Manual which meets the minimum requirements of the State Forest Conservation Technical Manual and includes:
- a. Standards for preparing and evaluating an NRI/FSD;
 - b. Standards for preparing and evaluating a forest conservation plan, including priorities for retention, reforestation, and afforestation;
 - c. A recommended native tree species list of the Mid-Atlantic Region;
 - d. A list of tree species that may not be used to satisfy the planting requirements of this Chapter. This list must include, at a minimum, all trees identified by the Maryland Department of Natural Resources as invasive. This list must not include any native tree, unless such tree is identified by the Forestry Official as presenting severe growth challenges, including, but not limited to, susceptibility to critical pest infestation, disease, or hazardous growth;
 - e. Forest and tree protective measures to be provided before, during, and after clearing or construction; and
 - f. Other standards, requirements, and clarifications consistent with this Chapter.

~~Develop procedures and policies necessary to administer this chapter.~~

- (4) Execute maintenance agreements pursuant to this Chapter on behalf of the Mayor and Council.
- (c) ~~The City Forester~~ Forestry Official. ~~The City Forester, or such other individual or individuals as may be designated by the City Manager~~ Forestry Official shall:
- (1) ~~Review and approve or disapprove Natural Resources Inventory/Forest Stand Delineations NRI/FSDs, and Forest Conservation Plans forest conservation plans, tree save plans, and other submissions, as provided for by this chapter~~ Chapter;
 - (2) ~~Interpret and apply the standards of the~~ this Chapter and the Forest Conservation Manual;

* * *

- (4) Inspect ~~development activity properties~~ to determine compliance with approved forest conservation plans and the provisions of this ~~chapter~~ Chapter;
- (5) Issue tree removal permits in accordance with section 10.5-32; and

* * *

Sec. 10.5-5. Definitions.

For purposes of this ~~chapter~~ Chapter ~~and the Conservation Manual~~, the following words, terms and phrases shall have the meaning respectively ascribed to them as set forth below. Any word, term, or phrase not defined herein ~~or in the Conservation Manual~~ shall have the meaning ascribed to ~~them~~ it in state law or regulation.

Abutting and adjacent means sharing a common property boundary. Two properties are considered abutting and adjacent if they are separated by a public right-of-way.

* * *

Afforestation level is the percentage of a ~~site tract~~ that is required to be forested ~~based on the zoning under section 10.5-22 of this Chapter.~~

Applicant means a person who applies for a covered ~~permit~~ or approval as defined in this section.

Approval or approved, when referring to the approval of an NRI/FSD Forest Stand Delineation, or a preliminary or final Forest Conservation Plan FCP (including a preliminary conservation plan), means ~~the approval of said delineation or plan by the City Forester~~ Forestry Official.

Board of Appeals means ~~the Board of Appeals created by Chapter 25.~~

Break-even point means ~~the point at which forest conservation requirements can be met solely through forest retention.~~

Caliper means the diameter measured in inches measured at ~~two (2)~~ six inches above the root collar.

* * *

Chapter means a chapter of the Rockville City Code.

* * *

City Manager means the person appointed by the Mayor and Council of Rockville to serve as the City Manager pursuant to Article VI of the City Charter.

COMAR means the Code of Maryland Regulations

Conservation Manual means the City's Forest Conservation Manual as defined in this section.

Conservation plan means a Forest Conservation Plan as defined in this section.

Covered activity means any of the following activities occurring in connection with a tract within the City:

- (1) ~~Subdivision of land;~~
- (2) ~~An activity that requires a grading and sediment control permit;~~
- (3) ~~An activity that requires a site plan or a project plan, or a site plan or project plan amendment;~~

Covered approval means ~~approval of a sediment control permit, a subdivision plan (preliminary or final), a site plan, a or project plan, or an amendment thereto to any of the foregoing, or of an amendment to a planned development, as defined herein.~~

Covered permit means ~~a sediment control permit issued by the City. A sediment control permit is required by chapter 19 before any grading can be performed.~~

Critical habitat area means a critical habitat for a threatened or endangered species and its surrounding protection area. A critical habitat area is an area that:

* * *

- (3) Constitutes a habitat of the species which is considered critical under Natural Resources Article, §§ sections 4-2A-04 and 10-2A-04, of the Natural Resources Article Annotated Code of Maryland.

* * *

DBH means the diameter of a tree's main trunk or stem, rounded to the nearest inch and measured four and a half feet above ground level in inches at breast height.

Declaration of intent means a statement executed and recorded among the Land Records by a property owner verifying that proposed activity is either exempt or excepted, in whole or in part, from a requirement of this ~~chapter~~ Chapter, and shall contain the following:

* * *

- (2) An agreement to comply with the provisions of this ~~chapter~~ Chapter at such time as any additional development occurs on the property; and

* * *

Development activity means grading, excavation, or construction activities ~~occurring on a specific tract, and includes including~~ redevelopment.

Development project completion ~~means:~~

- (1) ~~The release of all required bonds;~~
- (2) ~~Acceptance of the project's streets, utilities, and public improvements by the City;~~
~~or~~
- (3) ~~Designation by the City or State that a:~~
 - a. ~~Development project has been completed, or~~
 - b. ~~Particular stage of a staged development project has been completed.~~

DNR means the State of Maryland Department of Natural Resources.

Environmental ~~g~~Guidelines means guidelines adopted by resolution of the Mayor and Council Resolution No. 11-99 ~~establishing guidelines~~ for the protection and enhancement of the City's natural resources, ~~as that document may be amended or revised.~~

Forest, means a contiguous stand of trees that is at least 5,000 square feet in size exhibiting at least one transect of at least 50 feet in width, including areas that have been cut but not converted to other land uses.

(1) ~~"Forest" means a contiguous biological community dominated by trees and other woody plants covering a land area of five thousand (5,000) square feet or greater.~~

(2) ~~"Forest" includes:~~

a. ~~Areas that have at least one hundred (100) live trees per acre with at least fifty (50) percent of those trees having a two-inch or greater diameter at four and one-half (4½) feet above the ground and larger; and~~

b. ~~Areas that have been cut but not cleared.~~

(3) ~~"Forest" does not include orchards.~~

* * *

~~*Forest Conservation Plan or FCP* means a plan providing for the protection, maintenance, replacement, reforestation, and afforestation of the forest as provided by section 10.5-13 in this Chapter. A forest conservation plan includes a preliminary forest conservation plan, an amended forest conservation plan, and a final forest conservation plan.~~

~~*Forest Conservation Manual* means the manual adopted by resolution of the Mayor and Council detailed document containing technical specifications and standards of performance used in the implementation of this chapter Chapter, including the preparation of Forest Stand Delineations NRI/FSDs and Forest Conservation Plans FCPs.~~

~~*Forest Conservation Worksheet* means a worksheet used for calculating reforestation and afforestation requirements.~~

~~*Forest conservation threshold* means the percentage of the tract area at which the reforestation requirement under section 10.5-22 changes from a ratio of one-quarter (¼) acre planted for each acre removed above the threshold to a ratio of three (3) acres planted for each acre removed below the threshold.~~

* * *

~~*Forestry Official* means the person or persons designated by the City Manager to fulfill the responsibilities of the Forestry Official under this Chapter. The Forestry Official must be a Qualified Professional.~~

~~*Forest stand delineation* means the methodology for evaluating the existing vegetation on a site proposed for development activity, as provided in this chapter, and the conservation manual.~~

Intermittent stream means a stream in which surface water is absent during a portion of the year as shown on the most recent seven and one-half (7½)-minute topographic quadrangle published by the United States Geologic Survey as confirmed by field verification.

~~*Issuing Authority* means that employee, division, department, Board, or Commission of the City authorized to issue a covered permit or grant a covered approval.~~

~~*Land records*~~ *Records* means the Land Records of Montgomery County, Maryland.

Limits of disturbance means the limits of disturbance delineated in a sediment control permit pursuant to Chapter 19 or, where a sediment control permit is not required, the area within which all construction, grading, excavating, and clearing will occur.

Linear project means a project whose configuration is elongated with nearly parallel sides and used to transport a utility product or public service not otherwise contained in an application for subdivision, such as electricity, gas, water, sewer, communications, trains, and vehicles. Linear projects may traverse fee simple properties through defined boundaries or through easement rights.

Long-term protective agreement means a long-term measure to protect all land forested, afforested, reforested, or retained as forest, or trees required to be planted, under this Chapter, consistent with the requirements of COMAR 08.19.05.02.

Maintenance agreement means an agreement between an applicant and the City that details how the areas designated for afforestation, reforestation, forest retention, and other tree plantings required by this Chapter will be maintained to ensure protection or satisfactory establishment of tree plantings for a minimum of five years in a manner consistent with the requirements of COMAR 08.19.05.01. ~~short-term management agreement, for a minimum of five (5) years, relating to afforestation or reforestation plans required under Natural Resources Article, § 5-1605, Annotated Code of Maryland and this chapter.~~

Native tree means a tree native to the Mid-Atlantic region, as identified in the Forest Conservation Manual.

Natural Resources Article means the Natural Resources Article of the Maryland Annotated Code.

~~*Natural Resources Inventory (NRI)* means a complete analysis of existing natural features, forest, and tree cover on site as further defined and described in the Environmental Guidelines.~~

Natural Resources Inventory/Forest Stand Delineation or NRI/FSD means the information necessary to allow an evaluation of existing natural resources on a tract for conformance with this chapter. An NRI/FSD must be a complete analysis of existing natural features, forest, and tree cover on a site. Natural features include topography, steep slopes, perennial, intermittent and ephemeral streams, major drainage courses, 100-year floodplains, wetlands, soils and geological conditions, critical habitats, aerial extent of forest and tree cover, cultural features and historic sites and necessary buffers, as provided in this chapter and the Forest Conservation Manual.

Nontidal wetlands:-

(1) — "Nontidal wetlands" means an area that is:

- (1)a- Inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation; and
- (2)b- Considered a nontidal wetland in accordance with the publication known as the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands," published in 1989 and as may be amended and interpreted by the U.S. Environmental Protection Agency.

(2) — "Nontidal wetlands" does not include tidal wetlands regulated under ~~Natural Resources Article, Title 9, of the Natural Resources Article Annotated Code of Maryland.~~

* * *

Offsite means outside of the limits of the area encompassed by a tract, but within City limits.

~~*Onsite* means within the limits of the area encompassed by a tract, including an area classified as a 100-year floodplain.~~

100-year floodplain means an area along or adjacent to a stream or body of water, except tidal waters, that is capable of storing or conveying floodwaters during a 100-year frequency storm event ~~an area along or adjacent to a body of water with ground surface elevations that are inundated by the waters of the 100-year flood.~~

Onsite means within the limits of the area encompassed by a tract, including an area classified as a 100-year floodplain.

* * *

Planned development means a ~~development~~ development activity located in a planned development zone as set forth in Chapter chapter 25 (Zoning Ordinance), section 25.14.07.

Priority planting areas means those areas identified in subsection 10.5-23(b) as priority areas for afforestation and reforestation.

* * *

Qualified Professional-preparer means an individual qualified to prepare an Natural Resources Inventory/Forest Stand Delineation NRI/FSD and an Forest Conservation Plan FCP, including a licensed Maryland Forester, a licensed landscape architect, and any individual who otherwise meets the standards for a qualified professional as specified in COMAR 08.19.06.01, as may be amended.

Recorded lot, for purposes of this chapter only means a unit of land, the boundaries of which have been established by a deed or subdivision plat recorded in the land records of Montgomery County, but does not include an ownership lot as defined in chapter 25 (Zoning Ordinance) of this Code.

Reforestation or reforested means the replacement of removed forested areas by the creation of a biological community dominated by trees and other woody plants containing at least ~~one hundred (100)~~ live trees per acre with at least ~~fifty (50)~~ percent of those trees having the potential of attaining a two-inch or greater ~~diameter~~ DBH measured at four and one-half (~~4½~~) feet above the ground, within seven (~~7~~) years; or establishment of a forest according to procedures set forth in the Forest Conservation Manual.

Retention means the deliberate protection ~~holding and protecting~~ of existing trees, shrubs or plants on ~~the site a tract~~ according to established standards as provided in the ~~City of Rockville~~ Forest Conservation Manual.

Significant tree means a champion tree, a specimen tree, ~~or a tree~~ located within a forest with a ~~diameter~~ DBH of ~~twenty-four (24)~~ inches or more, a tree located outside of a forest with a ~~diameter~~ DBH of ~~twelve (12)~~ inches or more, or a tree with a DBH of six inches or more located within the limits of disturbance or within twenty-five 25 feet of the limits of disturbance with a diameter of six (6) inches or more. Trees identified as invasive, in accordance with section 10.5-4(b)(5), are not significant trees.

Single dwelling unit residential lot, for purposes of this chapter means a lot ~~regardless of zone, improved with~~ a structure containing not more than one (~~1~~) single dwelling unit. This term

includes townhouses and semi-detached dwellings located on separate lots and single dwelling units that are modified to include an accessory ~~apartment approved dwelling unit by special exception. This term does not include any common area owned by a homeowner's association or similar entity.~~

Solar photovoltaic facility means a facility composed of one or more solar panels combined with an inverter and other electrical and mechanical components that use energy from the sun to generate electricity for commercial sale.

Specimen tree means a tree with a ~~diameter-DBH~~ equal to or greater than ~~thirty (30)~~ inches or that is ~~seventy-five (75)~~ percent of the ~~diameter-DBH~~ of the state champion tree of that species.

State Forest Conservation Technical Manual means the Forest Conservation Technical Manual prepared for the Maryland Department of Natural Resources for use in the implementation of the 1991 Forest Conservation Act, as it currently exists and as it may be subsequently amended.

* * *

Stream restoration project means an activity that:

- (1) Is designed to stabilize stream banks or enhance stream function or habitat located within an existing stream, waterway, or floodplain;
- (2) Avoids and minimizes impacts to forests and provides for replanting onsite an equivalent number of trees to the number removed by the project;
- (3) May be performed under a municipal separate storm sewer system permit, a watershed implementation plan growth offset, or another plan administered by the State or local government to achieve or maintain water quality standards; and
- (4) Is not performed to satisfy stormwater management, wetlands mitigation, or any other regulatory requirement associated with proposed development activity.

Street tree means any tree planted in the public right-of-way or within a public access easement granted to the City for a private street.

Subdivision means a subdivision of land as defined in Chapter 25, except that subdivision the division of a lot, tract or parcel of land into two (2) or more lots, plats sites, or other divisions of land or assemblage of land for the purpose, whether immediate or future, of sale, lease,

transfer of ownership, or development. "Subdivision" includes resubdivision, but does not include the creation of ownership lots as that term is defined in ~~eChapter 25 (Zoning Ordinance)~~.

Tract means a property or unit of land for which an application for a covered ~~permit or~~ approval is filed. A tract may consist of one or more lots or parcels of land.

Tract area means the total area of a tract, including both forested and non-forested areas, to the nearest ~~one hundred (100)~~ square feet.

~~*Tract for a planned development activity within a planned development zone* means the entire property within the zone.~~

~~*Tract, subdivision* means all that property encompassed by a plat of subdivision.~~

Tree means a large, branched woody plant having one or several self-supporting stems or trunks and numerous branches that reach a height of at least ~~twenty (20)~~ feet at maturity.

Tree replacement means replacement of individual ~~significant~~ trees removed ~~whether or not as a result of development activity~~.

Tree save plan means a plan providing for the analysis, protection, maintenance, and supplementation of existing natural features and resources on a tract, in accordance with the Forest Conservation Manual.

Watershed means all land lying within an area described as a subbasin in water quality regulations adopted by the State Maryland Department of the Environment under COMAR 26.08.02.08.

* * *

ARTICLE II. - ~~FOREST STAND DELINEATION~~ NRI/FSDS AND FOREST CONSERVATION PLANS

Sec. 10.5-11. General requirements.

- (a) Except as ~~provided in subsection (b) of this section, an applicant must submit an NRI/FSD and a forest conservation plan otherwise provided this chapter or in the Conservation Manual, a person filing an application for a covered permit or approval shall submit a Forest Stand Delineation and a Forest Conservation Plan as part of, or in connection with, the application~~ a covered approval.

- (b) An applicant is exempt from the requirements of subsection (a) for the following activities—Exceptions. The submissions referenced in subsection (a) are not required:
- (1) Where an application for permit or approval is filed by the owner of a single dwelling unit residential lot in connection with construction or land disturbing activity not involving subdivision of the lot and where less than twenty thousand (20,000) square feet of forest is disturbed. Any activity conducted on one lot improved or proposed by an applicant to be improved with a single dwelling unit, provided that:
- a. The activity does not result in the cutting, clearing, or grading of more than 20,000 square feet of forest;
- b. The activity will not result in the cutting, clearing, or grading of any forest or trees that were subject to the requirements of a previous final forest conservation plan approved under this Chapter;
- c. The activity does not require the subdivision of land; and
- d. For activity including the construction of a new single dwelling unit or the demolition, repair, or renovation of more than 50 percent of the floor area of an existing single dwelling unit, the applicant is required to plant or preserve at least three trees, consistent with the Forest Conservation Manual, on the lot where the activity is proposed.
- (2) Where a Final Forest Conservation Plan—final forest conservation plan was has been approved within the preceding five (5) years in connection with the same development activity, unless the City Forester Forestry Official determines that there has been a significant alteration in the environment of the site—tract or change in applicable law, policy, or regulation since the approval of the final forest conservation plan.
- (3) For a site plan, project plan or site plan or project plan amendment, where a sediment control permit is not required for the development activity, unless the proposed development activity shows disturbance within or adjacent to the critical root zone of significant trees or trees protected by an existing Forest Conservation Easement. This exception applies only to the submission of a Forest Conservation Plan. A Forest Stand Delineation must accompany all applications for site plans, project plans, or amendments thereto, unless exempted by subsections (b)(1), (2), or (4) of this section.

Any activity that does not result in the disturbance of 5,000 square feet or greater of land area or 100 or more cubic yards of earth, impact the critical root zone of any significant tree, or impact the critical root zone of any tree subject to the requirements of a previous forest conservation plan approved under this Chapter.

- (4) Where an application for subdivision of a tract is filed for the purpose of facilitating the financing or transfer of the tract or portion thereof, and where no additional development on the tract occurs, provided that the property owner executes and records among the Land Records a Declaration of Intent and/or such other documents, acceptable in form and content to the ~~City Forester~~ Forestry Official and the City Attorney setting forth the obligation for compliance with this chapter in connection with future development of the tract.
- (5) ~~On a site with an approved preliminary development plan, that was previously granted an exemption from afforestation under the single recorded lot exemption, provided that: (1) there is no forest on site; and (2) no significant trees will be removed as a result of the covered activity or approval. Any activity requiring a site plan, project plan, or site plan or project plan amendment, for which a sediment control permit is not required, unless the proposed activity shows disturbance within or adjacent to the critical root zone of one or more significant trees or trees protected by an existing forest conservation plan;~~
- (6) Any activity on publicly-owned property required to install electric vehicle charging infrastructure, solar panels, or improvements necessary to comply with the Americans with Disabilities Act, provided that the activity is within an area previously improved with impervious surfaces and the applicant has received approval of a tree save plan.
- (7) A stream restoration project, provided that the applicant has received approval of a tree save plan and executed a binding maintenance agreement of at least five years with the affected property owner where the applicant and the property owner are not the same.
- (8) The cutting or clearing of public utility rights-of-way for electric generating stations licensed pursuant to sections 7-204, 7-205, 7-207, or 7-208 of the Public Utilities Article of the Annotated Code of Maryland, provided that:

- a. Any required certificates of public convenience and necessity have been issued in accordance with § 5-1603(f) of this subtitle; and
 - b. The cutting or clearing of the forest is conducted so as to minimize the loss of forest.
- (9) Routine maintenance of public roads and utility rights-of-way that does not result in the cutting, clearing, or grading of more than 10,000 square feet of forest or any forest or significant trees subject to the requirements of a previous forest conservation plan approved under this Chapter.
 - (10) Linear projects that do not result in the cutting, clearing, or grading of more than 10,000 square feet of forest or any forest or significant trees subject to the requirements of a previous forest conservation plan approved under this Chapter.
 - (11) The maintenance or retrofitting of a stormwater management structure that may include clearing of vegetation or removal and trimming of trees, so long as the maintenance or retrofitting is within the original limits of disturbance for construction of the existing structure, or within any maintenance easement for access to the structure.
- (c) ~~The Forest Stand Delineation and Forest Conservation Plan~~ NRI/FSD and FCP required by this section shall be prepared by, and exhibit the stamp/certification and signature of, a Qualified Professional Preparer ~~as defined in section 10.5-5 of this chapter.~~
 - (d) No application for a covered ~~permit or~~ approval is complete until the submissions required by this ~~eChapter~~ are accepted as complete by the ~~City Forester~~ Forestry Official. The ~~City Forester~~ Forestry Official may accept submissions substantially consistent with the purpose of this ~~eChapter~~ and ~~the Natural Resources Article, Sections 5-1602 through 1612 of the Natural Resources Article Annotated Code of Maryland.~~
 - (e) All covered ~~permits and~~ approvals shall be issued conditioned on approval of, and compliance with an ~~Forest Conservation Plan~~ FCP.

Sec. 10.5-12. Criteria for ~~forest stand delineations~~ NRI/FSDs.

- (a) ~~A Forest Stand Delineation~~ An NRI/FSD encompassing the entire tract, or such portion of the tract as may be approved by the ~~City Forester~~ Forestry Official, shall be used during the preliminary review of ~~the covered permit or approval~~ an

application; for a covered approval to determine the most suitable and practical areas for forest conservation and shall serve as the basis for an Forest Conservation Plan-FCP.

- (b) ~~A Forest Stand Delineation shall~~ An NRI/FSD must contain the following information:
- (1) A completed application form supplied by the City and signed by the applicant, the property owner, and the Qualified Professional~~preparer~~.
 - (2) A site vicinity map showing the location of the site-tract in relation to other properties within approximately one ~~(1)~~-square mile or more, including forested and sensitive areas adjacent to the site-tract;
 - (3) An environmental features map, also known as a ~~Forest Stand Delineation~~ NRI/FSD Map, exhibiting a stamp/certification and signature of the qualified preparer. The ~~Forest Stand Delineation~~ NRI/FSD Map shall be prepared at the same scale as the proposed development plan and shall show the following:
 - a. One hundred-year nontidal floodplains in watersheds ~~four hundred (400)~~ acres or larger, or for class III streams;

* * *
 - c. Steep slopes of ~~twenty-five (25)~~ percent or more;

* * *
 - g. Hydric soils, erodible soils on slopes of ~~fifteen (15)~~ percent or more, and soils with structural limitations as classified by USDA soil surveys;

* * *
 - l. A statement noting the presence or absence of cultural and/or historic resources-;
 - m. Forest suitable for forest interior-dwelling species; and
 - n. Forest that is most important for providing wildlife habitat or mitigating flooding, high temperatures, or air pollution.

- (4) Such additional information required by the Forest Conservation Manual for simplified, ~~intermediate~~, and full Forest Stand Delineations-NRI/FSDs; and
 - (5) Such other information that the ~~City Forester or issuing authority~~ Forestry Official determines is necessary to implement this ~~chapter~~ Chapter.
- (c) The Forest Conservation Manual shall set forth the criteria and requirements for submission of a simplified, ~~intermediate~~ and full Forest Stand Delineation-NRI/FSD.
- (1) ~~A simplified Forest Stand Delineation may be submitted where forest does not currently exist on the site or where existing forest will not be cut, cleared, or graded for the proposed development, and where adequate forest and tree protection devices and long-term agreement are established for the protection of existing forest and significant trees.~~
 - (2) ~~An intermediate Forest Stand Delineation may be submitted where the forest retention on a tract will be equal or greater to the break-even point as calculated in the forest conservation worksheet and priority retention areas will not be disturbed.~~
 - (3) ~~A full Forest Stand Delineation shall be used where a development does not qualify for a simplified or intermediate Forest Stand Delineation.~~
- (d) The ~~City Forester~~ Forestry Official may accept a Forest Stand Delineation-NRI/FSD that ~~substantially~~ complies with this ~~chapter~~ Chapter and the Forest Conservation Manual and furthers the goals of this ~~chapter~~ Chapter.
- (e) The submissions required by this section are in addition to any other submissions required in connection with the application for a covered ~~permit~~ or approval. However, if any submission required by this section duplicates the submission required by any other law or ordinance, regulation, decision, or policy, only one ~~(1)~~ submission of the same information is required.
- (f) An approved ~~Forest Stand Delineation-NRI/FSD~~ may remain in effect, and serve as the basis for a ~~Forest Conservation Plan~~ forest conservation plan for no longer than five ~~(5)~~ years, except that the ~~City Forester~~ Forestry Official may require submission of a revised Forest Stand Delineation-NRI/FSD if site conditions on the tract or applicable law or regulations change within five years of the original approval.

Sec. 10.5-13. Criteria for forest conservation plans.

- (a) ~~An Forest Conservation Plan (Conservation Plan)~~ FCP shall be based on an approved ~~Forest Stand Delineation~~ NRI/FSD and shall give priority to, and provide for, the protection and maintenance of any existing forest and significant trees within the ~~Forest Stand Delineation Area~~ area covered by the NRI/FSD which may be adversely affected by the proposed development activity ~~for~~ on the tract.
- (b) Where the existing forest and individual significant trees cannot be retained, the ~~Conservation Plan shall~~ FCP must provide for tree replacement, reforestation, and afforestation in accordance with ~~a~~ Article III of this Chapter.
- (c) ~~Preliminary Forest Conservation Plan~~ FCP.
 - (1) ~~A Preliminary Forest Conservation Plan~~ Except where a development will disturb less than ten percent of a tract area, an applicant may be submitted submit a preliminary FCP in connection with:
 - * * *
 - c. Any other situation where the Forestry Official ~~City Forester~~ deems appropriate.
 - (2) Requirements. ~~A Preliminary Forest Conservation Plan shall~~ A preliminary FCP must contain the following information:
 - a. The approved ~~Forest Stand Delineation~~ NRI/FSD for the ~~site~~ tract drawn to scale;
 - * * *
 - f. Written justification for the proposed use and location of non-priority retention areas and of ~~on-site~~ onsite and ~~off-site~~ offsite afforestation, reforestation, and/or tree replacement areas.
 - g. Such other information as may be required by this ~~chapter~~ Chapter or the Forest Conservation Manual.
 - h. Such other information that the ~~City Forester~~ Forestry Official determines is necessary to implement this ~~chapter~~ Chapter.

- (3) No development activity may occur on any portion of a tract covered by a ~~Preliminary Conservation Plan~~ preliminary FCP without an approved ~~Final Conservation Plan~~ final FCP for that portion of the tract.
 - (4) An approved ~~Preliminary Forest Conservation Plan~~ preliminary FCP shall remain in effect; and shall serve as the basis for the ~~Final Forest Conservation Plan~~ final FCP with respect to forest and tree retention for the duration of the validity period of the underlying approval, unless the ~~City Forester~~ Forestry Official determines that ~~site conditions on the tract~~ have changed to the point where the preliminary approval is no longer accurate. Notwithstanding the foregoing, all ~~Final Forest Conservation Plans~~ final FCPs shall comply with all other aspects of this Chapter in effect at the time of the approval of the ~~Final Forest Conservation Plan~~ final FCP.
- (d) ~~Final Forest Conservation Plan~~ FCP.
- (1) A ~~Final Conservation Plan~~ final FCP must be submitted and approved prior to any development activity on a tract.
 - (2) A ~~Final Conservation Plan~~ final FCP may be submitted for a portion of the area covered by an approved ~~Preliminary Conservation Plan~~ preliminary FCP, provided that ~~any such Final Conservation Plan~~ the final FCP must include forested areas in their entirety and the boundaries of ~~said Final Conservation Plan~~ the final FCP may not divide any forested area existing on the tract.
 - (3) Requirements. A ~~Final Conservation Plan~~ final FCP must contain all of the following information:
 - a. All of the information required in subsection (c) and in the Forest Conservation Manual for a ~~Preliminary Conservation Plan~~ preliminary FCP.

* * *

 - e. Such other information as may be required by the Forest Conservation Manual.
 - f. A ~~short-term~~ maintenance agreement as described in section 10.5-25 to ensure protection and satisfactory establishment of forest and

individual tree plantings for a minimum of five years that include biennial inspections in the spring and fall seasons.

- g. A long-term protective agreement as described in section 10.5-26 for the protection of areas of forest conservation, including areas of afforestation, reforestation, and retention.
 - h. Phasing and completion schedule for tree planting the required trees.
 - i. Such other information that the ~~City Forester~~ Forestry Official determines is necessary to implement this ~~chapter~~ Chapter.
- (4) An approved Final Forest Conservation Plan is valid for five ~~(5)~~ years, except that the Forestry Official ~~City Forester~~ may require submission of a revised FCP Forest Conservation Plan if tract site conditions change within five years of the FCP Forest Conservation Plan approval.

Sec. 10.5-14. Submission, review and approval; revocation.

- (a) The ~~Forest Stand Delineation~~ NRI/FSD shall be submitted in connection with, ~~and in the same manner as,~~ the application for the covered ~~permit or~~ approval.
- (b) In conjunction with, or subsequent to, the approval of the ~~Forest Stand Delineation~~ NRI/FSD, the applicant shall submit a ~~Preliminary or Final Forest Conservation Plan~~ preliminary or final FCP.
- (c) The submitted ~~Forest Stand Delineation and Forest Conservation Plan~~ NRI/FSD and FCP shall be referred to the ~~City Forester~~ Forestry Official for review.
 - (1) The ~~City Forester's~~ Forestry Official's review shall be concurrent and coordinated with other aspects of the review of the application for the covered ~~permit or~~ approval so as to maximize conservation and minimize tree loss.
 - (2) The ~~City Forester~~ Forestry Official may require additional information and /or modifications, approve, approve with conditions, or disapprove the ~~Forest Stand Delineation~~ NRI/FSD and the ~~Conservation Plan~~ FCP.
 - (3) The submission of the ~~Forest Stand Delineation~~ NRI/FSD or ~~Forest Conservation Plan~~ FCP shall not be complete until all information

required by this ~~chapter~~ Chapter, the Forest Conservation Manual, and such other information as may be required by the ~~City Forester~~ Forestry Official is received by the ~~City Forester~~ Forestry Official.

(4) NRI/FSD review.

- a. Within 30 days of receipt of an NRI/FSD, the Forestry Official shall notify the applicant in writing whether the NRI/FSD is complete and approved.
- b. If the Forestry Official fails to provide the notice required by subsection a., the FCP shall be deemed approved.
- c. The Forestry Official may provide for a 15-day extension to the 30-day deadline for extenuating circumstances by providing written notice to the applicant.
- d. At the request of the applicant, the Forestry Official may also extend this deadline for extenuating circumstances.

~~If the City Forester fails to approve, disapprove, or request additional information and/or modifications to the Forest Stand Delineation within thirty (30) days after its completed submission or resubmission, or the Forest Conservation Plan within forty five (45) days of its completed submission or resubmission, the Forest Stand Delineation or Conservation Plan shall be deemed to be approved.~~

~~If the Forest Conservation Plan is submitted along with the Forest Stand Delineation, the City Forester shall have forty five (45) days from the approval of the Forest Stand Delineation to review and approve, disapprove or require additional information and/or modifications to the Conservation Plan. The City Forester may extend the review period for an additional fifteen (15) calendar days, or for a longer period if agreed to or requested by the applicant.~~

(5) ~~The City Forester may:~~

- a. ~~Require changes and modifications to the Forest Stand Delineation and/or the Conservation Plan as a condition of approval.~~
- b. ~~Approve changes and modifications to the Forest Stand Delineation and/or the Conservation Plan if necessitated by changes in the development or in the condition of the site.~~

Forest conservation plan review.

- a. Within 45 days of receipt of an FCP, the Forestry Official shall notify the applicant in writing whether the forest conservation plan is complete and approved.
- b. If the Forestry Official fails to provide the notice required by subsection a., the FCP shall be deemed approved.
- c. The Forestry Official may provide for a 15-day extension to the 45-day deadline for extenuating circumstances by providing written notice to the applicant.
- d. At the request of the applicant, the Forestry Official may also extend this deadline for extenuating circumstances.
- e. The Forestry Official must issue written findings and justification as part of the approval of any FCP that includes clearing within a priority retention area.

(6) Notice of clearing within priority retention areas. At least 30 days before approval of a final FCP, the Forestry Official must:

- a. Provide mailed notice to all property owners abutting and adjacent to the boundary of the tract of any proposed clearing of a priority retention area; and
- b. For a tract with a net area of at least five acres where at least 75% of the priority retention area is proposed to be cleared, provide an opportunity for public written and verbal comment before plan approval; or for any other project where priority retention area is proposed for clearing, provide an opportunity for public written comment before plan approval.

(7) The Forestry Official may:

- a. Require changes and modifications to the NRI/FSD and/or the FCP as a condition of approval.

- b. Approve changes and modifications to the NRI/FSD and/or the FCP if necessitated by changes in the development or in the condition of the tract.
- (8) An approved final FCP is valid for five years, except that the Forestry Official may require submission of a revised final FCP if conditions on the tract change within five years of the final FCP approval.
- (d) The Forestry Official may revoke an approved final FCP upon finding that:
 - (1) A provision of the final FCP has been violated;
 - (2) Approval of the final FCP was obtained through fraud, misrepresentation, a false or misleading statement, or omission of a relevant or material fact; or
 - (3) Changes in the development or in the condition of the tract necessitate preparation of a new or amended plan.
- (e) Before revoking approval of a forest conservation plan, the Forestry Official shall notify the violator in writing and provide an opportunity for a hearing.

* * *

ARTICLE III. RETENTION, TREE REPLACEMENT, AFFORESTATION, AND REFORESTATION REQUIREMENTS

Sec. 10.5-21. Retention.

- (a) ~~The Forest Conservation Plan FCP shall give priority consideration to the retention of existing forest cover and individual significant trees and to minimizing the need for reforestation and tree replacement. Retention requirements are established as a percentage of a tract's total area in Section 10.5-22(c). Except as otherwise provided herein, existing forest cover and individual trees shall be retained to the break-even point.~~
- (b) Priority Retention Areas. Except as provided in subsection (c) below, the following trees, shrubs, plants, and specific areas are considered priority for retention and protection and must be retained, protected, and left in an undisturbed condition.

- (1) Trees, shrubs and plants located in certain sensitive areas, such as the ~~one hundred~~ (100) year floodplain, streams and stream buffer areas, steep slopes, nontidal wetlands, and critical habitats;
- (2) ~~Contiguous forests;~~ forest that connects the largest undeveloped or most vegetated portions of land within and adjacent to the tract;

* * *

- (7) ~~Certain specimen~~ Specimen trees or significant trees that are deemed rare, or of exceptional quality or size within the City.
 - (8) Forested stream buffers; ~~and~~
 - (9) Forested park buffers; ~~;~~
 - (10) Forest suitable for forest interior-dwelling species; and
 - (11) Forest that is most important for providing wildlife habitat or mitigating flooding, high temperatures, or air pollution.
- (c) ~~The City Forester~~ Forestry Official may approve clearing within priority retention areas if it has been demonstrated to the satisfaction of the Forestry Official in accordance with subsection (c)(1) of this section that clearing is warranted. ~~all of the following conditions have been met to the satisfaction of the City Forester:~~
- (1) ~~Priority forest has been retained to the break-even point for forest conservation or it has been demonstrated to the satisfaction of the City Forester in accordance with subsection (c)(4) of this section that clearing below the break-even point is warranted. The break-even point shall be calculated using the entire tract area and all existing forest within the tract;~~
 - (2) ~~On sites that do not contain priority forest equal to the break-even point, priority trees, as described in subsection (b)(4), (5), (6) and (7) above, have been retained to the afforestation level;~~
 - (3) ~~All afforestation, reforestation and tree replacement requirements are being met on-site; and~~
 - (4) ~~An applicant must provide written~~ Written justification signed by the applicant ~~has been provided~~ for clearing within priority retention areas ~~or~~

~~below the break-even point. Said~~ The applicant's justification must contain the following information:

- a. How clearing within priority retention areas or below the break-even point is required to accommodate one ~~(1)~~ or more of the following:

* * *

- ii. ~~Site access~~ Access to the tract.

* * *

- v. ~~Site conditions~~ Conditions on the tract and best design practices.

- b. Why the development activity is consistent with the City of Rockville Comprehensive Plan and cannot be altered to preserve priority retention areas. Cost, alone, or the desire not to alter preferred site design shall not be sufficient justification for not altering the development to preserve priority retention areas.

* * *

- (d) Non-priority retention areas. On ~~sites~~ tracts where there is insufficient priority retention area to satisfy the ~~forest~~ retention requirements of the forest conservation threshold in section 10.5-22(c), these requirements shall be satisfied through the retention of non priority areas provided that:

* * *

- (2) A minimum ~~five thousand~~ (5,000) square foot protection zone is specified;

* * *

- (4) The non priority areas provide one ~~(1)~~ or more of the following benefits:

- a. A vegetative buffer between two ~~(2)~~ different land uses.

* * *

- ~~(5) — Clearing below the break-even point must be justified in accordance with the requirements of subsection (c)(4) of this section~~

(e) ~~Priority trees. Written justification signed by the applicant and approved by the City Forester must be provided for removal of all trees listed in subsection (b)(4), (5), (6) and (7) above. Said justification must contain the following information:~~

(1) ~~How removal of the priority tree(s) is required to accommodate one (1) of the following:~~

- a. ~~Right of way.~~
- b. ~~Site access.~~
- c. ~~Utility connections.~~
- d. ~~Other City developmental standards.~~
- e. ~~Site conditions and best design practices.~~

(2) ~~Why the development cannot be altered to preserve priority trees. Cost alone, or the desire not to alter the preferred site design shall not be sufficient justification for not altering the development to preserve priority trees.~~

(3) ~~How all techniques for retention have been exhausted.~~

Sec. 10.5-22. Tree replacement, reforestation, and afforestation.

(a) Tree replacement and reforestation. After all efforts to maximize forest and tree preservation ~~on-site~~ onsite, as required in section 10.5-21, have been exhausted, the ~~Forest Conservation Plan~~ FCP shall provide for tree replacement, afforestation, and reforestation ~~on-site~~ onsite as follows:

(1) *Tree replacement.* Individual significant trees removed, whether within the forest or outside the forest, shall be replaced at the following rates with similar species~~:~~. In the event that adequate space does not exist for similar species, smaller species may be utilized, subject to the Forestry Official's approval.

Size of Significant Tree Removed (inches)	Minimum 2½-Inch Caliper Tree Replacement (number of trees)
126—18 d.b.h. DBH	1
greater than 18-19—24 d.b.h. DBH	2
Greater than 24-25-29 d.b.h. DBH	3
Replacement of a specimen or champion tree shall be at twice the above rate. 30 and greater DBH	<u>6</u>

Replacement of a specimen or champion tree shall be at twice the above rate.

(2) *Reforestation.* For all existing forest cover measured to the nearest ~~one~~ hundred (100) square feet cleared on the tract area:

- a. ~~Reforestation shall be at the rate of one-quarter (1/4) of the forested area removed above the forest conservation threshold established in subsection (c) of this section for the zone in which the tract is located; and~~
Forest cover outside of priority retention areas shall be reforested at a ratio of 50 square feet planted for every 100 square feet removed above the forest conservation threshold established in subsection (c) of this section for the zone in which the tract is located;
- b. ~~Reforestation shall be at the rate of three times the forested area removed below the forest conservation threshold established in subsection (c) of this section for the zone in which the tract is located.~~
Forest cover within or containing priority retention areas shall be reforested at a ratio of 100 square feet planted for every 100 square feet removed above the forest conservation threshold established in subsection (c) of this section for the zone in which the tract is located; and
- c. All forest cover removed below the forest conservation threshold established in subsection (c) of this section for the zone in which the tract is located shall be reforested at a ratio of 300 square feet planted for every 100 square feet removed.

~~C.~~(3) *Reforestation Credit.* The Forest Conservation Manual may provide for a
1. ~~—~~ A credit against the area required to be reforested for:

- ~~i~~a. Forested areas retained above the forest conservation threshold;
~~and~~
- ~~ii~~b. Individual significant trees retained outside of the forest retention areas, where ~~seventy-five (75)~~ percent of the critical root zone is preserved; and
- ~~iii~~c. Street trees planted, not to exceed ~~twenty-five (25)~~ percent of the total reforestation requirement.

(b) Afforestation.

- (1) Afforestation is not required for ~~covered a solar photovoltaic facility or~~ activities conducted:
 - a. ~~On a tract with an area of less than forty thousand (40,000) sq. ft.;~~
~~or~~
 - b. ~~On an existing single recorded residential lot of any size, provided that the lot is not subdivided and the covered activity does not result in the cutting, clearing, or grading of more than twenty thousand (20,000) square feet of forest.~~
 - c. ~~On a linear project, as defined by the State Forest Conservation Technical Manual, provided that the activity does not result in forest clearing in excess of twenty thousand (20,000) square feet.~~
- (2) Where forest cover on a tract prior to development activity is less than the percentage of coverage established in subsection (c) of this section as the afforestation level for the zone in which the tract is located, the ~~Conservation Plan FCP~~ shall provide for the afforestation of the tract to the applicable afforestation level.

* * *

- (4) The Forest Conservation Manual may provide for:
 - a. A credit against the area required to be afforested for:
 - (i) Individual significant trees retained outside of the forest retention areas, where ~~seventy-five (75)~~ percent of the critical root zone is preserved; and
 - (ii) Street trees planted, not to exceed ~~twenty-five (25)~~ percent of the total afforestation requirement.
 - b. Calculation of afforestation requirements based on less than the tract area where ~~seventy-five (75)~~ percent of a tract area has previously been developed and no more than ~~twenty-five (25)~~ percent of the tract area will be disturbed.
 - c. Calculation of afforestation requirements based on less than the tract area;

- (i) Where ~~seventy-five (75)~~ percent of a tract area has been previously developed; and
- (ii) The tract consists of one or more lots or parcels of land under common ownership aggregating at least ~~eighty (80)~~ acres in size; and
- (iii) No more than ~~fifty (50)~~ percent of the tract area will be disturbed.

(c) ~~Conservation~~ Forest conservation thresholds and afforestation levels.

Applicable Zones	<u>Forest</u> Conservation Threshold (percent)	Afforestation Level (percent)
R-400, R-200	30	20
R-90, R-75, R-60, R-150	25	15
R-40, RMD-INFILL, RMD-10, RMD-15, RMD-25	15	15
I-L, I-H, MXT, MXC, <u>MXCT</u> , MXNC, MXB, MXE, MXCD, MXTD	15	15

For planned developments the thresholds and levels are those applicable to the designated equivalent zone for each planned development, as set forth in ~~chapter Chapter 25 (Zoning Ordinance), article 14.~~

(d) Minimum tree cover.

* * *

- (2) In the MXCD, MXTD and MXNC zones, the minimum tree cover to be provided ~~on-site-onsite~~ is ~~ten (10)~~ percent of the tract area.
- (3) In the MXE zone, if at least five ~~(5)~~ percent of the tract area is dedicated in fee simple to the City as useable public parkland, the minimum tree cover to be provided ~~on-site-onsite~~ is ~~ten (10)~~ percent of the tract area. Any parcel of land dedicated to the City pursuant to this subsection must be a minimum of ~~twenty thousand (20,000)~~ square feet. It is the Director of Recreation and Park's sole discretion to determine whether to accept the dedication of land and whether land is usable public parkland. Trees

planted on the land to be dedicated to the City may count towards the minimum tree cover requirement, but the ~~City Forester~~ Forestry Official must approve any such planting.

- (4) For a champion project, as defined in ~~the chapter~~ Chapter 25 of the City ~~Code~~, the Mayor and Council, at the time a project plan resolution is approved, may establish the minimum tree cover to be provided ~~on-site~~ onsite. The minimum tree cover for a champion project can be established at no less than five ~~(5)~~ percent of the tract area.
- (5) Replacement trees, reforestation, afforestation and existing trees can be used to satisfy tree cover requirements. Tree cover requirements shall be calculated and shown on the ~~Forest Conservation Plan~~ FCP.
- (e) The Forest Conservation Manual may provide for implementation of tree replacement, reforestation, and afforestation requirements in stages tied to phased development activity. Tree replacement, reforestation, and afforestation shall be accomplished within one (1) year or two (2) growing seasons after completion of the development project, as specified on the approved ~~Forest Conservation Plan~~ FCP.
- (f) Upon meeting the reforestation and afforestation requirements in this section, all unforested riparian buffers onsite must be afforested and reforested, unless the Forestry Official finds, based on information provided by the applicant, that afforestation or reforestation in the riparian buffer:
 - (1) Would be in conflict with allowable uses as established for the riparian buffer;
 - (2) Is located on City park property and conflicts with the mission and established stewardship practices of the Department of Recreation and Parks; or
 - (3) Is not suitable for the establishment and retention of the required planting materials, in which case the applicant must implement substitute environmental protection measures approved by the Forestry Official.
- (g) A minimum of 80% of all trees planted by or on behalf of an applicant to satisfy the requirements of this section must be native trees. To the extent possible, forest conservation requirements should be met using a diversity of tree species.

Sec. 10.5-23. Preferred sequence and priorities for tree replacement, reforestation, and afforestation.

- (a) Tree replacement, reforestation and afforestation, where possible, shall be provided for in the following preferred sequence:

(1) Selective clearing and supplemental planting ~~on-site~~ onsite;

* * *

(3) Landscaping of areas ~~on-site~~ onsite under an approved landscaping plan; and;

(4) Offsite planting using transplanted or nursery stock that is equal to or greater than one inch caliper.

* * *

Sec. 10.5-24. Payment in lieu of tree replacement, reforestation, and afforestation.

- (a) If an applicant provides written justification demonstrating that tree replacement, reforestation or afforestation cannot be reasonably accomplished ~~on-site~~ onsite or offsite, the applicant may, with the approval of the ~~City Forester~~ Forestry Official, contribute to the City's Forest Conservation Fund and Park Maintenance Fund an amount in lieu of tree replacement, reforestation or afforestation as set forth in the Forest Conservation Manual. ~~Said~~ The applicant's justification must contain the following information:

(1) How planting space is limited to accommodate one ~~(1)~~ or more of the following:

ai. Right-of-way dedications;

bii. ~~Site access~~ Access to the tract;

ciii. Utility connections; or

d.iv. Other City development standards.

(3) How the minimum tree cover requirement, as determined by the afforestation threshold, is being met ~~on-site~~ onsite.

- (4) How the applicant has been unable to reasonably secure offsite area within the municipal boundaries of the City to accommodate afforestation or reforestation.

* * *

- (c) The City may use the funds from the Park Maintenance Fund for the purposes of installing, maintaining, and replacing trees, shrubbery, and other landscaping on City-owned parkland, right-of-way, and other City-owned property. Maintenance may include control and eradication of invasive/exotic plants. Funds shall not be used for the installation, maintenance, or replacement of any hardscape, except to the extent that such hardscape is deemed by the City Forestry Official to be necessary to protect and preserve plant material.

ARTICLE IV. ~~FOREST CONSERVATION, MAINTENANCE AND MANAGEMENT~~ AGREEMENTS

Sec. 10.5-25. ~~Short term maintenance~~ Maintenance agreements.

- (a) Where significant tree replacement, reforestation, or afforestation is required, the ~~Final Forest Conservation Plan~~ final FCP must include a binding five-year maintenance agreement ~~as specified in COMAR 08.19.05.01 and the Forest Conservation Manual~~.
- (b) The maintenance agreement shall provide for the maintenance of all trees planted in accordance with an approved ~~Final Forest Conservation Plan~~ final FCP to ~~insure~~ ensure their protection and the satisfactory establishments of forests. The maintenance agreement shall require replacement plantings if survival rates fall below required standards as provided in the ~~State's State Forest~~ Conservation Technical Manual and shall provide for access by representatives of the City to the afforested and reforested areas and other areas covered by the maintenance agreement. The maintenance agreement shall require eradication and control of non-native and invasive plants as identified on the City's Non-Native and Invasive Plant List for the duration of the maintenance period.

* * *

- (d) Upon a biennial inspection during the spring and fall planting seasons, ~~The~~ the maintenance period may be extended for additional growing seasons to ensure that:

* * *

- (2) Effective ~~exotic and non-native~~ invasive control is completed; and
 - (3) All aspects of the ~~Approved Forest Conservation Plan~~ approved forest conservation plan have been satisfactorily met.
- (e) Except where the City is the applicant, ~~The~~ maintenance agreement shall be accompanied by a bond issued by a surety company authorized to do business in ~~the state Maryland,~~ or an irrevocable letter of credit issued by a financial institution authorized to do business in ~~the state Maryland,~~ or such other security satisfactory to the ~~City Manager~~ Forestry Official and the City Attorney, in an amount equal to the estimated cost of significant tree replacement, afforestation, and reforestation ~~(or the amount of the contribution due the City Forest Conservation Fund),~~ plus the estimated cost of forest and significant tree protection measures.
- (1) The bond or other security shall run to the Mayor and Council and shall secure that the retention, tree replacement afforestation, reforestation and maintenance agreement are conducted and maintained in accordance with the approved ~~Forest Conservation Plan~~ FCP or that the required contributions have been made to the City Forest Conservation Fund.
 - (2) The security shall be released upon the determination of the ~~City Forester~~ Forestry Official that all requirements of the ~~Forest Conservation Plan~~ FCP and the ~~short-term~~ maintenance agreement have been fulfilled. The security may be partially released based on the successful implementation of phases of the ~~Conservation Plan~~ FCP, if the maintenance agreement provides for ~~said~~ partial release.
 - (3) The security may be subject to forfeiture upon the failure of the applicant to comply with:
 - a. An administrative order pertaining to the approved ~~Forest Conservation Plan~~ FCP; or
 - b. Any element of the approved ~~Forest Conservation Plan~~; FCP.
 - (4) The ~~City Manager~~ Forestry Official shall notify the obligee by certified mail; of the intention of the City to seek forfeiture of the security.

Sec. 10.5-26. Long -term protective agreement.

- (a) The ~~Final Forest Conservation Plan~~ final FCP must include a long-term ~~binding protective~~ agreement as specified in COMAR 08.19.05.02 and in a form

~~satisfactory to the City Attorney, providing for the preservation and protection of areas retained, afforested, or reforested and significant tree replacements consistent with an approved Final Forest Conservation Plan final FCP in a form approved by the Office of the City Attorney.~~

- (b) A long-term protective agreement shall contain ~~provisions for enforcement of the agreement provisions,~~ including provisions for the collection of attorney's fees incurred in such enforcement action, except where the City is the applicant.
- (c) ~~An applicant may satisfy the requirement for long-term protective agreement by executing a forest conservation and management agreement, as provided in the Annotated Code of Maryland, Tax Property Article, Section 8-211.~~
- (d) ~~The long-term agreement shall be accompanied by those legal instruments necessary to effectuate such agreement, such as conservation easements, deed restrictions, covenants and other agreements.~~
- (e) ~~Any final subdivision plat or detailed development plan for the subject tract approved on or after January 1, 1993 shall show the areas held under such subject to a long-term protective agreements.~~

* * *

ARTICLE V. INDIVIDUAL TREE REMOVAL

Sec. 10.5-31. Trees in public right-of-way.

Trees within the public_ right-of-way are subject to the State's Roadside Tree Law, as ~~currently set forth in the Natural Resources Article of the Annotated Code of Maryland §§ 5-401 through 5-406, and as subsequently amended.~~

Sec. 10.5-32. Trees on private property.

- (a) Except as provided in subsection (b), below, it is unlawful for any person to remove any significant tree on private property, including trees located within utility easements, not otherwise covered by an FCP, without first receiving a permit from the Forestry Official
- (b) This section does not apply to the removal of any significant tree located on a lot improved with an existing single dwelling unit, unless such tree is subject to an existing FCP or if such tree is within a public right-of-way and subject to section 10.5-31. single-family residential lot that is not otherwise subject to the provisions

~~of this chapter, except that the portion of a public right-of-way abutting a single dwelling unit residential lot is subject to section 10.5-31.~~

- ~~(b) It is unlawful for any person to remove any significant tree on private property, including trees located within utility easements, not otherwise covered by a Forest Conservation Plan, without first receiving a permit from the City Forester.~~
- (c) The ~~City Forester~~ Forestry Official shall issue a permit if one ~~(1)~~ of the following conditions exist:

* * *

- (4) Removal of a tree is required for the maintenance of a utility. Unless otherwise prohibited by law, the ~~City Forester~~ Forestry Official may require that significant trees removed be replaced in accordance with the tree replacement rates set forth in subsection 10.5-23(a)(1), or that payment be made to the City's Forest Conservation Fund in lieu of significant tree replacement.
- (d) If none of the conditions contained in subsection (c) exist, a permit may be issued only upon the condition that the tree removed be replaced in accordance with the tree replacement rates set forth in subsection 10.5-22(a)(1), or that payment be made to the City's Forest Conservation fund in lieu of significant tree replacement, or a combination of tree replacement and fee in lieu payment occurs, pursuant to the Forest Conservation Manual.

ARTICLE VI. ENFORCEMENT

Sec. 10.5-33. Inspections.

- (a) The ~~City Forester and other representatives of the City designated by the City Manager~~ Forestry Official may enter property subject to this ~~chapter~~ Chapter for the purpose of inspection and enforcement. The timing and frequency of the inspections shall be at the discretion of the ~~inspector~~ Forestry Official, except that the following inspections must take place:

* * *

- (2) Following completion of all land disturbing activities and tree replacement, afforestation or reforestation covered by the ~~Forest Conservation Plan~~ FCP; and

* * *

- (b) No land disturbing activity shall commence and no bond or security shall be released until ~~an inspection~~ the Forestry Official has been conducted an inspection.

Sec. 10.5-34. Penalties and other remedies.

- (a) Pursuant to Section 6-1612 of the Natural Resources Article ~~of the Annotated Code of Maryland~~, a fine in the amount of ~~one thousand dollars (\$1,000.00)~~ may be imposed for each violation of this ~~chapter~~ Chapter, including any violation of an approved ~~Forest Conservation Plan-FCP~~, which fine may be recovered in a civil action brought by the City. Each day a violation continues is a separate violation.

* * *

- (c) In addition to any of the foregoing remedies, the ~~City, through its appropriate commissions, departments, agencies, or other representatives,~~ Forestry Official may, in response to any violation:

- (1) Issue a stop-work order until the violation has been abated, and/or any fine or penalty imposed has been paid, except that a stop work order shall be lifted with respect to any fine or penalty from which an appeal has been filed pursuant to section 10.5-35 of this ~~chapter~~ Chapter;

* * *

- (4) Revoke a covered ~~permit or covered~~ approval issued conditioned on compliance with this ~~chapter~~ Chapter. Revocation of any covered ~~permit or~~ approval due to non-compliance with an approved ~~conservation plan-FCP~~ or any other violation of this ~~chapter~~ Chapter shall be conducted in the same manner as a revocation proceedings for other reasons;
 - (5) Assess an administrative penalty in the amount of ~~thirty cents (\$0.30)~~ per square foot of the area found to be in non-compliance with required forest conservation. Payment of such an administrative penalty shall become a condition of the covered ~~permit or~~ approval.
 - (d) When practical under the circumstances, the ~~City Forester~~ Forestry Official shall issue an administrative notice of violation requiring the violator to take corrective action and/or pay a fine and/or penalty within a certain period of time. The violator shall thereafter be given an opportunity to consult with the ~~City Forester~~ Forestry Official prior to any further enforcement action being taken. Service of the

administrative notice shall be made on the alleged violator personally, on the violator's agent at the activity site, or by certified mail to the violator's last known address. If, after reasonable efforts, service cannot be made in the foregoing manner, it shall be made by posting the administrative notice at the ~~site~~-tract which is the subject of the covered ~~permit~~-or approval and by regular mail to the violator's last known address. If the violator is different from the applicant for the covered ~~permit~~-or approval, the copy of the administrative notice of violation shall also be served upon said applicant.

Sec. 10.5-35. Appeals.

Any person aggrieved by a final decision of ~~the City Forester~~ Forestry Official ~~the Forestry Official~~ pursuant to this ~~chapter~~ Chapter may ~~appeal said decision to the Board of Appeals~~ file a petition for judicial review in the same manner as other decisions of administrative officials are appealed. Any person aggrieved by any decision of the Board of Appeals may ~~appeal the same to the Circuit Court of Montgomery County.~~ Such appeal shall be taken according to accordance with the Maryland Rules as set forth in Title 7, Chapter 200 not later than 30 days after the decision is issued.

- NOTE: ~~Strikethrough~~ indicates material deleted.
- Underlining indicates material added.
- Asterisks * * * indicate material unchanged by this ordinance.

I hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the Mayor and Council of Rockville at its meeting of _____.

Sara Taylor-Ferrell
City Clerk/Director of Council Operation

Chapter 10.5 FOREST AND TREE PRESERVATION¹

ARTICLE I. IN GENERAL

Sec. 10.5-1. Purpose.

The purpose of this ~~chapter~~Chapter is to:

- (1) Encourage the preservation and enhancement of the City's urban forests.
- (2) Replace tree cover in non-forest areas within the City.
- (3) Establish procedures, standards and requirements that protect trees and forests during and after development activity and minimize tree loss due to development activity.
- (4) Establish procedures, standards and requirements for afforestation and reforestation of land within the City.
- (5) Meet the requirements of ~~the Natural Resources Article~~, Sections 5-1601 through 5-1613 of the ~~Annotated Code of Maryland~~Natural Resources Article.

~~(Ord. No. 12-07, 7-16-07)~~

Sec. 10.5-2. Scope.

Except as otherwise provided, this ~~chapter~~Chapter applies to all applications for a covered ~~permit or covered~~ approval as defined in section 10.5-5 of this ~~chapter~~Chapter made on or after January 1, 1993.

~~(Ord. No. 12-07, 7-16-07)~~

Sec. 10.5-3. Interpretation.

- (a) All references in this ~~chapter~~Chapter to provisions of the Annotated Code of Maryland shall refer to the provisions as they currently exist and as they may be amended.
- (b) References to COMAR are to the Code of Maryland Regulations and refer to the referenced provisions of those regulations as they currently exist and as they may be subsequently amended.
- (c) The provisions of this ~~chapter~~Chapter shall be interpreted and applied in conjunction with the ~~specifications and clarifications contained in the~~ Forest Conservation Manual. In the event of any conflict between the provisions of this Chapter and those of the Forest Conservation Manual, this Chapter shall govern.

~~(Ord. No. 12-07, 7-16-07)~~

¹Editor's note(s) — ~~Ord. No. 12-07, adopted July 16, 2007, amended chapter 10.5 in its entirety to read as herein set out. Formerly, chapter 10.5 pertained to similar subject matter, and derived from Ord. No. 21-92, adopted December 14, 1992; Ord. No. 2-00, adopted March 27, 2000; Ord. No. 10-06, adopted November 13, 2006.~~

Sec. 10.5-4. Administration.

- (a) *The Mayor and Council.* The Mayor and Council shall:
- (1) Establish by resolution fees to cover the cost of administering this ~~chapter~~Chapter.
 - ~~(2) Adopt by resolution (b) *The City Manager.* The City Manager shall:~~
 - ~~(1) Designate a Forestry Official to interpret and administer the provisions of this Chapter;~~
 - ~~(2) Prepare and submit the reports required by section 5-1613 of the Natural Resources Article;~~
 - ~~(3) Promulgate and keep current a Forest Conservation Manual which shall meet meets the minimum requirements of the State Forest Conservation Technical Manual and shall include, but not be limited to includes:~~
 - a. Standards for preparing and evaluating a ~~Forest Stand Delineation~~an NRI/FSD;
 - b. Standards for preparing and evaluating a ~~Forest Conservation Plan~~forest conservation plan, including priorities for retention, reforestation, and afforestation;
 - c. A recommended native tree species list; ~~of the Mid-Atlantic Region;~~
 - ~~d. A list of tree species that may not be used to satisfy the planting requirements of this Chapter. This list must include, at a minimum, all trees identified by the Maryland Department of Natural Resources as invasive. This list must not include any native tree, unless such tree is identified by the Forestry Official as presenting severe growth challenges, including, but not limited to, susceptibility to critical pest infestation, disease, or hazardous growth;~~
 - e. Forest and tree protective measures to be provided ~~prior~~before, during, and after clearing or construction; and
 - ef. Other standards, requirements, and clarifications consistent with this ~~chapter~~Chapter.
 - ~~(4) Execute maintenance agreements pursuant to this Chapter on behalf of the Mayor (b) *The City Manager.* The City Manager, through the City Forester and other authorized designees shall:~~
 - ~~(1) Administer the provisions of this chapter and the City's Conservation Manual.~~
 - ~~(2) Prepare and submit the reports to the Senate Environmental Affairs Committee and the House Environmental Matters Committee required by Natural Resources Article, Section 5-1613 of the Annotated Code of Maryland.~~
 - ~~(3) Develop procedures and policies necessary to administer this chapter.~~
 - (c) *The City Forester/Forestry Official.* The City Forester, or such other individual or individuals as may be designated by the City Manager shall: Forestry Official shall:
 - (1) Review and approve or disapprove ~~Forest Stand Delineations and Forest Conservation Plans~~NRI/FSDs, forest conservation plans, tree save plans, and other submissions, as provided for by this ~~chapter~~Chapter;
 - (2) Interpret and apply the standards of this Chapter and the Forest Conservation Manual;
 - (3) Develop technical standards and specifications for forest and tree protective measures and planting of trees and forests;
 - (4) Inspect ~~development activity~~properties to determine compliance with approved forest conservation plans, tree save plans, and the provisions of this ~~chapter~~Chapter;

- (5) Issue tree removal permits in accordance with section 10.5-32; and
- (6) Assess fines and administrative penalties pursuant to section 10.5-34.

~~(Ord. No. 12-07, 7-16-07)~~

Sec. 10.5-5. Definitions.

For purposes of this ~~chapter and the Conservation Manual~~ Chapter, the following words, terms and phrases shall have the meaning respectively ascribed to them as set forth below. Any word, term, or phrase not defined herein ~~or in the Conservation Manual~~ shall have the meaning ascribed to ~~them~~ it in state law or regulation.

~~Abutting and adjacent means sharing a common property boundary. Two properties are considered abutting and adjacent if they are separated by a public right-of-way.~~

~~Afforestation means the establishment of tree cover on an area from which it has always or very long been absent, or the planting of open areas which are not presently in forest cover.~~

~~Afforestation level is the percentage of a ~~site tract~~ that is required to be forested based on the zoning under section 10.5-22 of this Chapter.~~

~~Applicant means a person who applies for a covered permit or approval as defined in this section.~~

~~Approval or approved, when referring to the approval of a Forest Stand Delineation, or a Forest Conservation Plan, (including an NRI/FSD or a preliminary conservation plan), or final FCP, means the approval of said delineation or plan by the City Forester.~~

~~Board of Appeals means the Board of Appeals created by Chapter 25.~~

~~Break even point means the point at which forest conservation requirements can be met solely through forest retention.~~ ~~Forestry Official.~~

~~Caliper means the diameter measured in inches measured at two (2) six inches above the root collar.~~

~~Champion tree means the largest tree of its species within the United States, the State, county, or municipality.~~

~~Chapter means a chapter of the Rockville City Code.~~

~~City means the City of Rockville.~~

~~Conservation Manual~~ ~~City Manager means the City's Forest Conservation Manual as defined in this section.~~

~~Conservation plan means a Forest Conservation Plan as defined in this section.~~

~~Covered activity means any of person appointed by the following activities occurring in connection with a tract within Mayor and Council of Rockville to serve as the City:~~

~~(1) Subdivision Manager pursuant to Article VI of land; the City Charter.~~

~~(2) An activity that requires a grading and COMAR means the Code of Maryland Regulations.~~

~~Covered approval means a sediment control permit;~~

~~(3) — An activity that requires, a subdivision plan (preliminary or final), a site plan or, a project plan, or a site plan amendment to any of the foregoing, or project plan amendment;~~

~~Covered approval means approval of a subdivision (preliminary or final), site plan or project plan or amendment thereto, or of an amendment to a planned development, as defined herein.~~

~~Covered permit means a sediment control permit issued by the City. A sediment control permit is required by chapter 19 before any grading can be performed.~~

Critical habitat area means a critical habitat for a threatened or endangered species and its surrounding protection area. A critical habitat area is an area that:

- (1) Is likely to contribute to the long-term survival of the species;
- (2) Is likely to be occupied by the species for the foreseeable future; and
- (3) Constitutes a habitat of the species which is considered critical under sections 4-2A-04 and 10-2A-04 of the Natural Resources Article, ~~§§ 4-2A-04 and 10-2A-04, Annotated Code of Maryland.~~

Critical root zone means the zone in which the majority of a tree's roots lay, as calculated by the Forest Conservation Manual.

DBH means the diameter in inches at breast height of a tree's main trunk or stem, rounded to the nearest inch and measured four and a half feet above ground level.

Declaration of intent means a statement executed and recorded among the Land Records by a property owner verifying that proposed activity is either exempt or excepted, in whole or in part, from a requirement of this ~~chapter~~Chapter, and shall contain the following:

- (1) Satisfactory assurances of limited or no additional development activity on the tract;
- (2) An agreement to comply with the provisions of this ~~chapter~~Chapter at such time as any additional development occurs on the property; and
- (3) Such other provisions deemed appropriate by the City.

Development activity means grading, excavation, or construction activities ~~occurring on a specific tract, and includes, including~~ redevelopment.

~~*Development project completion* means:~~

- ~~(1) The release of all required bonds;~~
- ~~(2) Acceptance of the project's streets, utilities, and public improvements by the City; or~~
- ~~(3) Designation by the City or State that a:~~
 - ~~a. Development project has been completed, or~~
 - ~~b. Particular stage of a staged development project has been completed.~~

~~*DNR* means the State of Maryland Department of Natural Resources.~~

Environmental ~~guidelines~~Guidelines means guidelines adopted by resolution of the Mayor and Council ~~Resolution No. 11-99 establishing guidelines~~ for the protection and enhancement of the City's natural resources ~~as that document may be amended or revised.~~

~~*Forest.*~~

- ~~(1) "Forest" means a contiguous biological community dominated by stand of trees and other woody plants covering a land area of five thousand (that is at least 5,000) square feet or greater.~~
- ~~(2) "Forest" includes:~~
 - ~~a. Areas that have in size exhibiting at least one hundred (100) live trees per acre with at least fifty (50) percent of those trees having a two-inch or greater diameter transect of at four and one-half (4½) least 50 feet above the ground and larger; and~~
 - ~~b. Areas in width, including areas that have been cut but not cleared.~~

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(Supp. No. 16, Update 2)

~~(3) "Forest" does not include orchards converted to other land uses.~~

Forest conservation means the retention of existing forest or the creation of new forest at the levels set by the City.

Forest conservation and management agreement means an agreement as stated in the Tax-Property Article, § 8-211, Annotated Code of Maryland.

Forest ~~Conservation Plan~~ conservation plan or FCP means a plan providing for the protection, maintenance, replacement, reforestation, and afforestation of the forest as provided ~~by section 10.5-13 in this Chapter.~~ A forest conservation plan includes a preliminary forest conservation plan, an amended forest conservation plan, and a final forest conservation plan

Forest Conservation Manual means the ~~detailed document~~ manual adopted by resolution of the Mayor and Council containing technical specifications and standards of performance used in the implementation of this ~~chapter~~ Chapter, including the preparation of ~~Forest Stand Delineations~~ NRI/FSDs and ~~Forest Conservation Plans~~ FCPs.

Forest Conservation Worksheet means ~~a worksheet used for calculating reforestation and afforestation requirements.~~

Forest conservation threshold means ~~the percentage of the tract area at which the reforestation requirement under section 10.5-22 changes from a ratio of one-quarter (¼) acre planted for each acre removed above the threshold to a ratio of three (3) acres planted for each acre removed below the threshold.~~

Forest cover means the area of a tract meeting the definition of forest.

Forest stand delineation means ~~the methodology for evaluating the existing vegetation on a site proposed for development activity, as provided in this chapter, and the conservation manual.~~

Forestry Official means ~~the person or persons designated by the City Manager to fulfill the responsibilities of the Forestry Official under this Chapter. The Forestry Official must be a Qualified Professional.~~

Intermittent stream means a stream in which surface water is absent during a portion of the year as shown on the most recent seven and one-half ~~(7½)~~ minute topographic quadrangle published by the United States Geologic Survey as confirmed by field verification.

Issuing Authority means ~~that employee, division, department, Board, or Commission of the City authorized to issue a covered permit or grant a covered approval.~~

Land ~~records~~ Records means the Land Records of Montgomery County, Maryland.

Limits of disturbance means the ~~limits of disturbance delineated in a sediment control permit pursuant to Chapter 19 or, where a sediment control permit is not required, the~~ area within which all construction, grading, excavating, and clearing will occur.

Linear project means ~~a project whose configuration is elongated with nearly parallel sides and used to transport a utility product or public service not otherwise contained in an application for subdivision, such as electricity, gas, water, sewer, communications, trains, and vehicles. Linear projects may traverse fee simple properties through defined boundaries or through easement rights.~~

Long-term protective agreement means ~~a long-term measure to protect all land forested, afforested, reforested, or retained as forest, or trees required to be planted, under this Chapter, consistent with the requirements of COMAR 08.19.05.02.~~

Maintenance agreement means ~~a short-term management agreement, between an applicant and the City that details how the areas designated for a minimum of five (5) years, relating to afforestation or, reforestation plans required under, forest retention, and other tree plantings required by this Chapter will be maintained to~~

ensure protection or satisfactory establishment of tree plantings for a minimum of five years in a manner consistent with the requirements of COMAR 08.19.05.01.

Native tree means a tree native to the Mid-Atlantic region, as identified in the Forest Conservation Manual.

Natural Resources Article, § 5-1605, means the Natural Resources Article of the Maryland Annotated Code of Maryland and this chapter.

Natural Resources Inventory ~~or Forest Stand Delineation or NRI~~ means/FSD means the information necessary to allow an evaluation of existing natural resources on a tract for conformance with this chapter. An NRI/FSD must be a complete analysis of existing natural features, forest, and tree cover on ~~site as further defined and described in the Environmental Guidelines~~ a site. Natural features include topography, steep slopes, perennial, intermittent and ephemeral streams, major drainage courses, 100-year floodplains, wetlands, soils and geological conditions, critical habitats, aerial extent of forest and tree cover, cultural features and historic sites and necessary buffers, as provided in this chapter and the Forest Conservation Manual.

Nontidal wetlands.

(1) "Nontidal wetlands" means an area that is:

a. (1) Inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation; and

b. (2) Considered a nontidal wetland in accordance with the publication known as the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands," published in 1989 and as may be amended and interpreted by the U.S. Environmental Protection Agency.

(2) "Nontidal wetlands" does not include tidal wetlands regulated under Title 9 of the Natural Resources Article, Title 9, Annotated Code of Maryland.

Offsite means outside of the limits of the area encompassed by a tract, but within City limits.

100-year floodplain means an area along or adjacent to a stream or body of water, except tidal waters, that is capable of storing or conveying floodwaters during a 100-year frequency storm event.

Onsite means within the limits of the area encompassed by a tract, including an area classified as a 100-year floodplain.

100-year floodplain means an area along or adjacent to a body of water with ground surface elevations that are inundated by the waters of the 100-year flood.

Park buffer means an area of separation that preserves the integrity of a park/recreation area by preventing physical or aesthetic encroachment from adjoining land uses, as further defined and described in the Environmental Guidelines.

Person means the federal government, the State, a county, municipal corporation, or other political subdivision of the State, or any of their units, or an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any of their affiliates, or any other entity.

Planned development means a development activity located in a planned development zone as set forth in chapterChapter 25 (Zoning Ordinance), section 25.14.07.

Priority planting areas means those areas identified in subsection 10.5-23(b) as priority areas for afforestation and reforestation.

Priority retention areas means those areas identified in subsection 10.5-21(b) as priority areas for forest and tree retention and protection.

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(Supp. No. 16, Update 2)

Qualified ~~preparer~~Professional means an individual qualified to prepare a ~~Forest Stand Delineation~~NRI/FSD and a ~~Forest Conservation Plan~~FCP, including a licensed Maryland Forester, a licensed landscape architect, and any individual who otherwise meets the standards for a qualified professional as specified in COMAR 08.19.06.01.

Recorded lot, for purposes of this chapter only means a unit of land, the boundaries of which have been established by a deed or subdivision plat recorded in the land records of Montgomery County, but does not include an ownership lot as defined in chapter 25 (Zoning Ordinance) of this Code, as may be amended.

Reforestation or reforested means the replacement of removed forested areas by the creation of a biological community dominated by trees and other woody plants containing at least ~~one hundred (100)~~ live trees per acre with at least ~~fifty (50)~~ percent of those trees having the potential of attaining a two-inch or greater ~~diameter~~DBH measured at four and one-half ~~(4½)~~ feet above the ground, within seven ~~(7)~~ years; or establishment of a forest according to procedures set forth in the Forest Conservation Manual.

Retention means the deliberate ~~holding and protecting~~protection of existing trees, shrubs or plants on ~~the site~~a tract according to established standards as provided in the ~~City of Rockville~~ Forest Conservation Manual.

Significant tree means a champion tree, a specimen tree, or a tree located within a forest with a ~~diameter~~DBH of ~~twenty-four (24)~~ inches or more, a tree located outside of a forest with a ~~diameter~~DBH of ~~twelve (12)~~ inches or more, or a tree ~~with a DBH of six inches or more located within twenty-five~~ the limits of disturbance ~~or within 25 feet of the limits of disturbance with a diameter of six (6) inches or more. Trees identified as invasive, in accordance with section 10.5-4(b)(5), are not significant trees.~~

Single dwelling unit ~~residential lot, for purposes of this chapter~~ means a ~~lot regardless of zone, improved with a structure containing not more than one (1) single dwelling unit. This term includes townhouses and semi-detached dwellings located on separate lots and single dwelling units that are modified to include an accessory apartment approved by special exception. This term does not include any common area owned by a homeowner's association or similar entity.~~ dwelling unit.

Solar photovoltaic facility means a facility composed of one or more solar panels combined with an inverter and other electrical and mechanical components that use energy from the sun to generate electricity for commercial sale.

Specimen tree means a tree with a ~~diameter~~DBH equal to or greater than ~~thirty (30)~~ inches or that is ~~seventy-five (75)~~ percent of the ~~diameter~~DBH of the state champion tree of that species.

State Forest Conservation ~~Technical~~ Manual means the Forest Conservation Technical Manual prepared for the Maryland Department of Natural Resources for use in the implementation of the 1991 Forest Conservation Act, as it currently exists and as it may be subsequently amended.

Stream buffer means a strip of natural vegetation contiguous with and parallel to the bank of a perennial or intermittent stream and designed to protect the stream, as further defined and described in the Environmental Guidelines.

Stream restoration project means an activity that:

- (1) Is designed to stabilize stream banks or enhance stream function or habitat located within an existing stream, waterway, or floodplain;
- (2) Avoids and minimizes impacts to forests and provides for replanting onsite an equivalent number of trees to the number removed by the project;
- (3) May be performed under a municipal separate storm sewer system permit, a watershed implementation plan growth offset, or another plan administered by the State or local government to achieve or maintain water quality standards; and

~~(4) Is not performed to satisfy stormwater management, wetlands mitigation, or any other regulatory requirement associated with proposed development activity.~~

~~Street tree~~ means any tree planted in the public right-of-way ~~or within a public access easement granted to the City for a private street.~~

~~Subdivision~~ means ~~the division of a lot, tract or parcel~~ a subdivision of land into two (2) or more lots, plats, sites, or other divisions of land or assemblage of land for the purpose, whether immediate or future, of sale, lease, transfer of ownership, or development. "Subdivision" includes resubdivision, but ~~as defined in Chapter 25, except that subdivision~~ does not include the creation of ownership lots as that term is defined in ~~chapter 25 (Zoning Ordinance).~~ Chapter 25.

~~Tract~~ means a property or unit of land for which an application for a covered ~~permit or~~ approval is filed. A tract may consist of one or more lots or parcels of land.

~~Tract area~~ means the total area of a tract, including both forested and non-forested areas, to the ~~nearest one hundred (100)~~ square feet.

~~Tract for a planned development activity within a planned development zone~~ means the entire property within the zone.

~~Tract, subdivision~~ means all that property encompassed by a plat of subdivision.

~~Tree~~ means a large, branched woody plant having one or several self-supporting stems or trunks ~~and numerous branches~~ that reach a height of at least ~~twenty (20)~~ feet at maturity.

~~Tree replacement~~ means replacement of individual ~~significant~~ trees removed ~~whether or not as a result of development activity.~~

~~Tree save plan~~ means a plan providing for the analysis, protection, maintenance, and supplementation of existing natural features and resources on a tract, in accordance with the Forest Conservation Manual.

~~Watershed~~ means all land lying within an area described as a subbasin in water quality regulations adopted by the ~~State~~ Maryland Department of the Environment under COMAR 26.08.02.08. (Ord. No. 12-07, 7-16-07; Ord. No. 10-09, § 1, 3-23-09)

Secs. 10.5-6—10.5-10. Reserved.

ARTICLE II. ~~FOREST STAND DELINEATION~~ NRI/FSDS AND FOREST CONSERVATION PLANS

Sec. 10.5-11. General requirements.

- (a) Except as ~~otherwise~~ provided ~~this chapter or in the Conservation Manual, a person filing in subsection (b) of this section, an application for a covered permit or approval shall~~ applicant must submit a Forest Stand Delineation an NRI/FSDS and a Forest Conservation Plan ~~forest conservation plan~~ as part of, or in connection with, ~~the application~~ a covered approval.
- (b) ~~Exceptions. The submissions referenced in~~ An applicant is exempt from the requirements of subsection (a) ~~are not required for the following activities:~~

-
- (1) ~~Where an application for permit~~Any activity conducted on one lot improved or approval is filed~~proposed by the owner of an applicant to be improved with~~ a single dwelling unit~~residential lot in connection with construction~~, provided that
- a. ~~The activity does not result in the cumulative cutting, clearing, or land disturbinggrading of more than 20,000 square feet of forest;~~
 - b. ~~The activity will not involvingresult in the cutting, clearing, or grading of any forest or trees that were subject to the requirements of a previous final forest conservation plan approved under this Chapter;~~
 - c. ~~The activity does not require the~~ subdivision of ~~land; and~~
 - d. ~~For activity including the construction of a new single dwelling unit or the demolition, repair, or renovation of more than 50 percent of the floor area of an existing single dwelling unit, the applicant is required to plant or preserve at least three trees, consistent with the Forest Conservation Manual, on the lot and where less than twenty thousand (20,000) square feet of forest is disturbed, the activity is proposed.~~
- (2) Where a ~~Final Forest Conservation Plan has been~~final forest conservation plan was approved within the preceding five ~~(5)~~ years in connection with the same ~~development~~ activity, unless the ~~City ForesterForestry Official~~ determines that there has been a significant alteration in the environment of the ~~site~~tract or change in applicable law, policy, or regulation since the approval of the ~~final forest conservation~~ plan.
- (3) ~~For a site plan, project plan or site plan or project plan amendment, where a sediment control permit is not required for the development activity, unless the proposed development activity shows disturbance within or adjacent to the critical root zone of significant trees or trees protected by an existing Forest Conservation Easement. This exception applies only to the submission of a Forest Conservation Plan. A Forest Stand Delineation must accompany all applications for site plans, project plans, or amendments thereto, unless exempted by subsections (b)(1), (2), or (4) of this section. Any activity that does not result in the disturbance of 5,000 square feet or greater of land area or 100 or more cubic yards of earth, impact the critical root zone of any significant tree, or impact the critical root zone of any tree subject to the requirements of a previous forest conservation plan approved under this Chapter.~~
- (4) Where an application for subdivision of a tract is filed for the purpose of facilitating the financing or transfer of the tract or portion thereof, and where no additional development on the tract occurs, provided that the property owner executes and records among the Land Records a Declaration of Intent and/or such other documents, acceptable in form and content to the ~~City ForesterForestry Official~~ and the City Attorney setting forth the obligation for compliance with this chapter in connection with future development of the tract.
- ~~(5) On a site with an approved preliminary development plan, that was previously granted an exemption from afforestation under the single recorded lot exemption, provided that: (1) there is no forest on site; and (2) no significant trees will be removed as a result of the covered activity or approval.~~
- (5) ~~Any activity requiring a site plan, project plan, or site plan or project plan amendment, for which a sediment control permit is not required, unless the proposed activity shows disturbance within or adjacent to the critical root zone of one or more significant trees or trees protected by an existing forest conservation plan;~~
- (6) ~~Any activity on publicly-owned property required to install electric vehicle charging infrastructure, solar panels, or improvements necessary to comply with the Americans with Disabilities Act, provided that the activity is within an area previously improved with impervious surfaces and the applicant has received approval of a tree save plan.~~

- (7) A stream restoration project, provided that the applicant has received approval of a tree save plan and executed a binding maintenance agreement of at least five years with the affected property owner where the applicant and the property owner are not the same.
- (8) The cutting or clearing of public utility rights-of-way for electric generating stations licensed pursuant to sections 7-204, 7-205, 7-207, or 7-208 of the Public Utilities Article of the Annotated Code of Maryland, provided that:
- a. Any required certificates of public convenience and necessity have been issued in accordance with § 5-1603(f) of this subtitle; and
- b. The cutting or clearing of the forest is conducted so as to minimize the loss of forest.
- (9) Routine maintenance of public roads and utility rights-of-way that does not result in the cutting, clearing, or grading of more than 10,000 square feet of forest or any forest or significant trees subject to the requirements of a previous forest conservation plan approved under this Chapter.
- (10) Linear projects that do not result in the cutting, clearing, or grading of more than 10,000 square feet of forest or any forest or significant trees subject to the requirements of a previous forest conservation plan approved under this Chapter.
- (11) The maintenance or retrofitting of a stormwater management structure that may include clearing of vegetation or removal and trimming of trees, so long as the maintenance or retrofitting is within the original limits of disturbance for construction of the existing structure, or within any maintenance easement for access to the structure.
- (c) The ~~Forest Stand Delineation and Forest Conservation Plan~~NRI/FSD and FCP required by this section shall be prepared by, and exhibit the stamp/certification and signature of, a Qualified ~~Preparer as defined in section 10.5.5 of this chapter.~~Professional.
- (d) No application for a covered ~~permit or~~ approval is complete until the submissions required by this ~~chapter~~Chapter are accepted as complete by the ~~City Forester.~~ The City Forester~~Forestry Official. The Forestry Official~~ may accept submissions substantially consistent with the purpose of this ~~chapter~~Chapter and ~~thesections 5-1602 through 1612 of~~ Sections 5-1602 through 1612 of the ~~Natural Resources Article.~~ Annotated Code of Maryland.
- (e) All covered ~~permits and~~ approvals shall be issued conditioned on approval of, and compliance with a ~~Forest Conservation Plan~~an FCP.

~~(Ord. No. 12-07, 7-16-07; Ord. No. 10-09, § 2, 3-23-09; Ord. No. 21-09, 10-12-09; Ord. No. 1-11, 2-14-11)~~

Sec. 10.5-12. Criteria for ~~forest stand delineations~~NRI/FSDs.

- (a) ~~A Forest Stand Delineation~~An NRI/FSD encompassing the entire tract, or such portion of the tract as may be approved by the ~~City Forester~~Forestry Official, shall be used during the preliminary review of ~~the covered permit or approval~~ an application, ~~for a covered approval~~ to determine the most suitable and practical areas for forest conservation and shall serve as the basis for ~~a Forest Conservation Plan~~an FCP.
- (b) ~~A Forest Stand Delineation~~An NRI/FSD shall contain the following information:
- (1) A completed application form supplied by the City and signed by the applicant, the property owner, and the ~~qualified preparer~~Qualified Professional.
- (2) A site vicinity map showing the location of the ~~site~~tract in relation to other properties within approximately one ~~(1)~~ square mile or more, including forested and sensitive areas adjacent to the ~~site~~tract;

- (3) An environmental features map, also known as a ~~Forest Stand Delineation~~ NRI/FSD Map, exhibiting a stamp/certification and signature of the ~~qualified preparer~~ Qualified Professional. The ~~Forest Stand Delineation~~ NRI/FSD Map shall be prepared at the same scale as the proposed development plan and shall show the following:
- One hundred-year nontidal floodplains in watersheds ~~four hundred (400)~~ acres or larger, or for class III streams;
 - Intermittent streams and perennial streams, including buffers required by the Environmental Guidelines;
 - Steep slopes of ~~twenty-five (25)~~ percent or more;
 - Critical habitat areas;
 - Nontidal or tidal wetlands, including buffers required by the Environmental Guidelines;
 - Topographic contours and intervals;
 - Hydric soils, erodible soils on slopes of ~~fifteen (15)~~ percent or more, and soils with structural limitations as classified by USDA soil surveys;
 - Survey location of all significant trees;
 - A significant tree summary table identifying the species, size, and description of condition of all significant trees located on the map;
 - Identification of critical root zones extending from trees located on adjacent tracts, including the location, species and condition estimate of the trees;
 - A statement noting the presence or absence of rare, threatened or endangered species;
 - A statement noting the presence or absence of cultural and/or historic resources—m. Forest suitable for forest interior-dwelling species; and
n. Forest that is most important for providing wildlife habitat or mitigating flooding, high temperatures, or air pollution.
- (4) Such additional information required by the Forest Conservation Manual for simplified, ~~intermediate~~, and full ~~Forest Stand Delineations~~ NRI/FSDs; and
- (5) Such other information that the ~~City Forester or issuing authority~~ Forestry Official determines is necessary to implement this ~~chapter~~ Chapter.
- (c) The Forest Conservation Manual shall set forth the criteria and requirements for submission of a simplified, ~~intermediate~~ and full ~~Forest Stand Delineation~~:
- ~~(1) A simplified Forest Stand Delineation may be submitted where forest does not currently exist on the site or where existing forest will not be cut, cleared, or graded for the proposed development, and where adequate forest and tree protection devices and long-term agreement are established for the protection of existing forest and significant trees.~~
 - ~~(2) An intermediate Forest Stand Delineation may be submitted where the forest retention on a tract will be equal or greater to the break-even point as calculated in the forest conservation worksheet and priority retention areas will not be disturbed.~~
 - ~~(3) A full Forest Stand Delineation shall be used where a development does not qualify for a simplified or intermediate Forest Stand Delineation.~~ NRI/FSD.

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- (d) The ~~City Forester~~Forestry Official may accept ~~a Forest Stand Delineation that substantially~~an NRI/FSD that complies with this ~~chapter~~Chapter and the Forest Conservation Manual and furthers the goals of this ~~chapter~~Chapter.
- (e) The submissions required by this section are in addition to any other submissions required in connection with the application for a covered ~~permit or~~ approval. However, if any submission required by this section duplicates the submission required by any other law or ordinance, regulation, decision, or policy, only one ~~(4)~~ submission of the same information is required.
- (f) An approved ~~Forest Stand Delineation~~NRI/FSD may remain in effect, and serve as the basis for a ~~Forest Conservation Plan~~forest conservation plan for no longer than five ~~(5)~~ years, except that the ~~City Forester~~Forestry Official may require submission of a revised ~~Forest Stand Delineation~~NRI/FSD if ~~site~~ conditions on the tract or applicable law or ~~regulation~~regulations change within five years of the original approval.

~~(Ord. No. 12-07, 7-16-07)~~

Sec. 10.5-13. Criteria for forest conservation plans.

- (a) ~~A Forest Conservation Plan (Conservation Plan)~~An FCP shall be based on an approved ~~Forest Stand Delineation~~NRI/FSD and shall give priority to, and provide for, the protection and maintenance of any existing forest and significant trees within the ~~Forest Stand Delineation Area~~area covered by the NRI/FSD which may be adversely affected by the proposed development activity ~~for~~on the tract.
- (b) Where the existing forest and individual significant trees cannot be retained, the ~~Conservation Plan shall~~FCP must provide for tree replacement, reforestation, and afforestation in accordance with ~~article~~Article III. of ~~this Chapter.~~
- (c) Preliminary ~~Forest Conservation Plan~~FCP.
- (1) ~~A Preliminary Forest Conservation Plan~~Except where a development will disturb less than ten percent of a tract area, an applicant may be submittedsubmit a preliminary FCP in connection with:
- A preliminary plan of subdivision;
 - A project plan or site plan;
 - Any other situation where the ~~City Forester~~Forestry Official deems appropriate.
- (2) Requirements. A ~~Preliminary Forest Conservation Plan shall~~preliminary FCP must contain the following information:
- The approved ~~Forest Stand Delineation~~NRI/FSD for the ~~site~~tract drawn to scale;
 - The applicable zone and pertinent reforestation and afforestation threshold levels.
 - A table of area sizes for the following:
 - Existing tract area, floodplain area, and forest area.
 - Proposed areas of forest and tree retention.
 - Proposed areas of forest and tree removal.
 - Proposed areas of reforestation and afforestation.
 - A graphic delineation of the following areas:
 - Proposed forest and significant tree retention areas.

- (ii) Proposed afforestation and reforestation areas.
 - (iii) Proposed limits of disturbance.
 - e. Written justification for disturbance of priority retention areas, including the reasons why the priority retention areas cannot be retained and how disturbed priority retention areas will be replaced through afforestation and reforestation.
 - f. Written justification for the proposed use and location of non-priority retention areas and of ~~on-site~~ and ~~off-site~~ afforestation, reforestation, and/or tree replacement areas.
 - g. Such other information as may be required by this ~~chapter~~Chapter or the Forest Conservation Manual.
 - h. Such other information that the ~~City Forester~~Forestry Official determines is necessary to implement this ~~chapter~~Chapter.
- (3) No development activity may occur on any portion of a tract covered by a ~~Preliminary Conservation Plan~~preliminary FCP without an approved ~~Final Conservation Plan~~final FCP for that portion of the tract.
- (4) An approved ~~Preliminary Forest Conservation Plan~~preliminary FCP shall remain in effect, and shall serve as the basis for the ~~Final Forest Conservation Plan~~final FCP with respect to forest and tree retention for the duration of the validity period of the underlying approval, unless the ~~City Forester~~Forestry Official determines that ~~site~~conditions on the tract have changed to the point where the preliminary approval is no longer accurate. Notwithstanding the foregoing, all ~~Final Forest Conservation Plans~~final FCPs shall comply with all other aspects of this Chapter in effect at the time of the approval of the ~~Final Forest Conservation Plan~~final FCP.
- (d) Final ~~Forest Conservation Plan~~FCP.
- (1) A ~~Final Conservation Plan~~final FCP must be submitted and approved prior to any development activity on a tract.
 - (2) A ~~Final Conservation Plan~~final FCP may be submitted for a portion of the area covered by an approved ~~Preliminary Conservation Plan~~preliminary FCP, provided that ~~any such Final Conservation Plan~~the final FCP must include forested areas in their entirety and the boundaries of said ~~Final Conservation Plan~~final FCP may not divide any forested area existing on the tract.
 - (3) Requirements. A ~~Final Conservation Plan~~final FCP must contain ~~all of~~ the following information:
 - a. All of the information required in subsection (c) and in the Conservation Manual for a ~~Preliminary Conservation Plan~~preliminary FCP.
 - b. Details and specifications of protective devices and measures to be used prior to and during construction activities to protect forest and significant trees, including information pertaining to the locations, types, implementation, and maintenance of the protective measures.
 - c. A graphic delineation of the limits of disturbance and soil stockpile areas.
 - d. A critical root zone analysis, including root zones extending on the tract from adjacent property.
 - e. Such other information as may be required by the Forest Conservation Manual.
 - f. A ~~short-term~~ maintenance agreement as described in section 10.5-25 to ensure protection and satisfactory establishment of forest and individual tree plantings for a minimum of five years that include biennial inspections in the spring and fall seasons.
 - g. A long-term protective agreement as described in section 10.5-26 for the protection of areas of forest conservation, including areas of afforestation, reforestation, and retention.

- h. Phasing and completion schedule for ~~tree~~ planting the required trees.
 - i. Such other information that the ~~City Forester~~ Forestry Official determines is necessary to implement this ~~chapter~~ Chapter.
- (4) An approved Final Forest Conservation Plan is valid for five ~~(5)~~ years, except that the ~~City Forester~~ Forestry Official may require submission of a revised ~~Forest Conservation Plan~~ FCP if ~~site~~ tract conditions change within five years of the ~~Forest Conservation Plan~~ FCP approval.

(Ord. No. 12-07, 7-16-07; Ord. No. 10-09, § 2, 3-23-09)

Sec. 10.5-14. Submission, review and approval; revocation.

- (a) The ~~Forest Stand Delineation~~ NRI/FSD shall be submitted in connection with, ~~and in the same manner as,~~ the application for the covered ~~permit or~~ approval.
 - (b) In conjunction with, or subsequent to, the approval of the ~~Forest Stand Delineation~~ NRI/FSD, the applicant shall submit a ~~Preliminary or Final Forest Conservation Plan~~ preliminary or final FCP.
 - (c) The submitted ~~Forest Stand Delineation and Forest Conservation Plan~~ NRI/FSD and FCP shall be referred to the ~~City Forester~~ Forestry Official for review.
 - (1) The ~~City Forester's~~ Forestry Official's review shall be concurrent and coordinated with other aspects of the review of the application for the covered ~~permit or~~ approval so as to maximize conservation and minimize tree loss.
 - (2) The ~~City Forester~~ Forestry Official may require additional information and /or modifications, approve, approve with conditions, or disapprove the ~~Forest Stand Delineation~~ NRI/FSD and the ~~Conservation Plan~~ FCP.
 - (3) The submission of the ~~Forest Stand Delineation~~ NRI/FSD or ~~Forest Conservation Plan~~ FCP shall not be complete until all information required by this ~~chapter~~ Chapter, the Forest Conservation Manual, and such other information as may be required by the ~~City Forester~~ Forestry Official is received by the ~~City Forester~~ Forestry Official.
 - (4) ~~If the City Forester fails to approve, disapprove, or request additional information and/or modifications to the Forest Stand Delineation within thirty (30) days after its completed submission or resubmission, or the Forest Conservation Plan within forty five (45) days of its completed submission or resubmission, the Forest Stand Delineation or Conservation Plan shall be deemed to be approved.~~ NRI/FSD review.
 - ~~If the Forest Conservation Plan is submitted along with the Forest Stand Delineation, the City Forester shall have forty five (45) days from the approval of the Forest Stand Delineation to review and approve, disapprove or require additional information and/or modifications to the Conservation Plan. The City Forester may extend the review period for an additional fifteen (15) calendar days, or for a longer period if agreed to or requested by the applicant.~~
- a. Within 30 days of receipt of an NRI/FSD, the Forestry Official shall notify the applicant in writing whether the NRI/FSD is complete and approved.
 - b. If the Forestry Official fails to provide the notice required by subsection a., the FCP shall be deemed approved.
 - c. The Forestry Official may provide for a 15-day extension to the 30-day deadline for extenuating circumstances by providing written notice to the applicant.

d. At the request of the applicant, the Forestry Official may also extend this deadline for extenuating circumstances.

(5) Forest conservation plan review.

a. Within 45 days of receipt of an FCP, the Forestry Official shall notify the applicant in writing whether the forest conservation plan is complete and approved.

b. If the Forestry Official fails to provide the notice required by subsection a., the FCP shall be deemed approved.

c. The City Forester/Forestry Official may provide for a 15-day extension to the 45-day deadline for extenuating circumstances by providing written notice to the applicant.

d. At the request of the applicant, the Forestry Official may also extend this deadline for extenuating circumstances.

e. The Forestry Official must issue written findings and justification as part of the approval of any FCP that includes clearing within a priority retention area.

(6) Notice of clearing within priority retention areas. At least 30 days before approval of a final FCP, the Forestry Official must:

a. Provide mailed notice to all property owners abutting and adjacent to the boundary of the tract of any proposed clearing of a priority retention area; and

b. For a tract with a net area of at least five acres where at least 75% of the priority retention area is proposed to be cleared, provide an opportunity for public written and verbal comment before plan approval; or for any other project where priority retention area is proposed for clearing, provide an opportunity for public written comment before plan approval.

(7) The Forestry Official may:

a. Require changes and modifications to the ~~Forest Stand Delineation~~NRI/FSD and/or the ~~Conservation Plan~~FCP as a condition of approval.

b. Approve changes and modifications to the ~~Forest Stand Delineation~~NRI/FSD and/or the ~~Conservation Plan~~FCP if necessitated by changes in the development or in the condition of the ~~site~~tract.

~~(Ord. No. 12-07, 7-16-07)~~

(8) An approved final FCP is valid for five years, except that the Forestry Official may require submission of a revised final FCP if conditions on the tract change within five years of the final FCP approval.

(d) The Forestry Official may revoke an approved final FCP upon finding that:

(1) A provision of the final FCP has been violated;

(2) Approval of the final FCP was obtained through fraud, misrepresentation, a false or misleading statement, or omission of a relevant or material fact; or

(3) Changes in the development or in the condition of the tract necessitate preparation of a new or amended plan.

(e) Before revoking approval of a forest conservation plan, the Forestry Official shall notify the violator in writing and provide an opportunity for a hearing.

Secs. 10.5-15—10.5-20. Reserved.

ARTICLE III. RETENTION, TREE REPLACEMENT, AFFORESTATION AND REFORESTATION REQUIREMENTS

Sec. 10.5-21. Retention.

- (a) The ~~Forest Conservation Plan~~FCP shall give priority consideration to the retention of existing forest cover and individual significant trees and to minimizing the need for reforestation and tree replacement. ~~Except as otherwise provided herein, existing forest cover and individual trees shall be retained to the break even point. Retention requirements are established as a percentage of a tract's total area in Section 10.5-22(c).~~
- (b) Priority Retention Areas. Except as provided in subsection (c) below, the following trees, shrubs, plants, and specific areas are considered priority for retention and protection and must be retained, protected, and left in an undisturbed condition.
- (1) Trees, shrubs and plants located in certain sensitive areas, such as the ~~one hundred (100)~~ year floodplain, streams and stream buffer areas, steep slopes, nontidal wetlands, and critical habitats;
 - (2) Contiguous ~~forests; forest that connects the largest undeveloped or most vegetated portions of land within and adjacent to the tract;~~
 - (3) Priority forests as described in the State Forest Conservation Technical Manual;
 - (4) Rare, threatened, or endangered species as referred to in COMAR 08.19.03.01 Article VII 7.2C;
 - (5) Trees associated with a historic site or structure;
 - (6) Trees designated as a champion tree;
 - (7) ~~Certain specimen~~Specimen trees or significant trees that are deemed rare, or of exceptional quality or size within the City;
 - (8) Forested stream buffers;~~and~~
 - (9) Forested park buffers~~;~~
 - (10) Forest suitable for forest interior-dwelling species; and
 - (11) Forest that is most important for providing wildlife habitat or mitigating flooding, high temperatures, or air pollution.
- (c) The ~~City Forester~~Forestry Official may approve clearing within priority retention areas if ~~all of the following conditions have been met to the satisfaction of the City Forester:~~
- ~~(1) Priority forest has been retained to the break even point for forest conservation or it has been demonstrated to the satisfaction of the City ForesterForestry Official in accordance with subsection (c)(41) of this section that clearing below the break even point is warranted. The break even point shall be calculated using the entire tract area and all existing forest within the tract;~~
 - ~~(2) On sites that do not contain priority forest equal to the break even point, priority trees, as described in subsection (b)(4), (5), (6) and (7) above, have been retained to the afforestation level;~~
 - ~~(3) All afforestation, reforestation and tree replacement requirements are being met on site; and~~

~~(4) —Written(1) —~~ An applicant must provide written justification signed by the applicant ~~has been provided for clearing within priority retention areas or below the break-even point. Said. The applicant's~~ justification must contain the following information:

- a. How clearing within priority retention areas ~~or below the break-even point~~ is required to accommodate one ~~(1)~~ or more of the following:
 - i. Right-of-way dedications.
 - ii. ~~Site access~~Access to the tract.
 - iii. Utility connections.
 - iv. Other City development standards.
 - v. ~~Site conditions~~Conditions on the tract and best design practices.
- b. Why the development ~~activity is consistent with the City of Rockville Comprehensive Plan and~~ cannot be altered to preserve priority retention areas. Cost, alone, or the desire not to alter preferred site design shall not be sufficient justification for not altering the development to preserve priority retention areas.
- c. How all techniques for retention have been exhausted.

(d) Non-priority retention areas. On ~~site~~tracts where there is insufficient priority retention area to satisfy the ~~forest~~ retention requirements, ~~of the forest conservation threshold in section 10.5-22(c),~~ these requirements shall be satisfied through the retention of non priority areas provided that:

- (1) Priority areas are protected in retention areas;
- (2) A minimum ~~five thousand (5,000)~~ square foot protection zone is specified;
- (3) All critical root zone areas are included in the protection area; and
- (4) The non priority areas provide one ~~(1)~~ or more of the following benefits:
 - a. A vegetative buffer between two ~~(2)~~ different land uses.
 - b. Wildlife habitat.
 - c. Water quality.
 - d. Reduces runoff from erosion.
 - e. Reduces flooding.
 - f. Protects steep slopes.
 - g. Provides areas for recreation and outdoor education activities.

~~(5) —Clearing below the break-even point must be justified in accordance with the requirements of subsection (c)(4) of this section.~~

~~(e) —Priority trees. Written justification signed by the applicant and approved by the City Forester must be provided for removal of all trees listed in subsection (b)(4), (5), (6) and (7) above. Said justification must contain the following information:~~

- ~~(1) —How removal of the priority tree(s) is required to accommodate one (1) of the following:~~
- ~~a. —Right of way.~~
 - ~~b. —Site access.~~
 - ~~c. —Utility connections.~~

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d. ~~Other City developmental standards.~~

e. ~~Site conditions and best design practices.~~

(2) ~~Why the development cannot be altered to preserve priority trees. Cost alone, or the desire not to alter the preferred site design shall not be sufficient justification for not altering the development to preserve priority trees.~~

(3) ~~How all techniques for retention have been exhausted.~~

~~(Ord. No. 12-07, 7-16-07; Ord. No. 21-09, 10-12-09)~~

Sec. 10.5-22. Tree replacement, reforestation and afforestation.

(a) Tree replacement and reforestation. After all efforts to maximize forest and tree preservation ~~on-site~~onsite, as required in section 10.5-21, have been exhausted, the ~~Forest Conservation Plan~~FCP shall provide for tree replacement, afforestation and reforestation ~~on-site~~onsite as follows:

(1) *Tree replacement.* Individual significant trees removed, whether within the forest or outside the forest, shall be replaced at the following rates with similar species: ~~In the event that adequate space does not exist for similar species, smaller species may be utilized, subject to the Forestry Official's approval.~~

Size of Significant Tree Removed (inches)	Minimum 2½-Inch Caliper Tree Replacement (number of trees)
126—18 d.b.h. <u>DBH.</u>	1
greater than 18 <u>19—24 d.b.h.</u> <u>DBH.</u>	2
greater than 24 d.b.h. <u>25—29 DBH.</u>	3
Replacement of a specimen or champion tree shall be at twice the above rate. <u>30 and greater DBH</u>	<u>6</u>

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(2) *Reforestation.* For all existing forest cover measured to the nearest ~~one hundred (100)~~ square feet cleared on the tract area:

a. ~~Reforestation shall be at the rate of one quarter (¼) of the forested area.~~ Forest cover outside of priority retention areas shall be reforested at a ratio of 50 square feet planted for every 100 square feet removed above the forest conservation threshold established in subsection (c) of this section for the zone in which the tract is located;

b. Forest cover within or containing priority retention areas shall be reforested at a ratio of 100 square feet planted for every 100 square feet removed above the forest conservation threshold established in subsection (c) of this section for the zone in which the tract is located; and

b. ~~Reforestation shall be at the rate of three times the forested area.~~ All forest cover removed below the forest conservation threshold established in subsection (c) of this section for the zone in which the tract is located—shall be reforested at a ratio of 300 square feet planted for every 100 square feet removed.

c. ~~(3) Reforestation credit.~~ The Forest Conservation Manual may provide for:

1. ~~A~~ a credit against the area required to be reforested for:

i. ~~a.~~ Forest areas retained above the forest conservation threshold; and

- ~~ii~~b. Individual significant trees retained outside of the forest retention areas, where ~~seventy-five (75)~~ percent of the critical root zone is preserved; and
- ~~iii~~c. Street trees planted, not to exceed ~~twenty-five (25)~~ percent of the total reforestation requirement.

(b) Afforestation.

- (1) Afforestation is not required for ~~covered a solar photovoltaic facility or~~ activities conducted:
 - ~~a. On a~~ a tract with an area of less than forty thousand (40,000) sq. ft; ~~or~~
 - ~~b. On an existing single recorded residential lot of any size, provided that the lot is not subdivided and the covered activity does not result in the cutting, clearing, or grading of more than twenty thousand (20,000) square feet of forest.~~
 - ~~c. On a linear project, as defined by the State Forest Conservation Technical Manual, provided that the activity does not result in forest clearing in excess of twenty thousand (20,000) square feet.~~
- (2) Where forest cover on a tract prior to development activity is less than the percentage of coverage established in subsection (c) of this section as the afforestation level for the zone in which the tract is located, the ~~Conservation Plan~~FCP shall provide for the afforestation of the tract to the applicable afforestation level.
- (3) Forest cut or cleared below the required afforestation level, in accordance with section 10.5-21, shall be replaced at a rate of three (3) times the area removed 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.
- (4) The ~~Forest~~ Conservation Manual may provide for:
 - a. A credit against the area required to be afforested for:
 - (i) Individual significant trees retained outside of the forest retention areas, where ~~seventy-five (75)~~ percent of the critical root zone is preserved; and
 - (ii) Street trees planted, not to exceed ~~twenty-five (25)~~ percent of the total afforestation requirement.
 - b. Calculation of afforestation requirements based on less than the tract area where ~~seventy-five (75)~~ percent of a tract area has previously been developed and no more than ~~twenty-five (25)~~ percent of the tract area will be disturbed.
 - c. Calculation of afforestation requirements based on less than the tract area;
 - (i) Where ~~seventy-five (75)~~ percent of a tract area has been previously developed; and
 - (ii) The tract consists of one or more lots or parcels of land under common ownership aggregating at least ~~eighty (80)~~ acres in size; and
 - (iii) No more than ~~fifty (50)~~ percent of the tract area will be disturbed.

(c) ~~Conservation~~Forest conservation thresholds and afforestation levels.

Applicable Zones	Forest Conservation Threshold (percent)	Afforestation Level (percent)
R-400, R-200	30	20
R-90, R-75, R-60, R-150	25	15

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R-40, RMD-INFILL , RMD10, RMD15, RMD25	15	15
I-L, I-H, MXT, MXC, MXCT , MXNC, MXB, MXE, MXCD, MXTD	15	15

For planned developments the thresholds and levels are those applicable to the designated equivalent zone ~~for each planned development~~, as set forth in ~~chapter~~Chapter 25 (~~Zoning Ordinance~~), article 14.

(d) Minimum tree cover.

- (1) Except as otherwise provided in this section, the minimum tree cover to be provided onsite is the same percentage of the tract area as the afforestation level.
- (2) In the MXCD, MXTD and MXNC zones, the minimum tree cover to be provided ~~on-site~~onsite is ~~ten-(10)~~ percent of the tract area.
- (3) In the MXE zone, if at least five-~~(5)~~ percent of the tract area is dedicated in fee simple to the City as useable public parkland, the minimum tree cover to be provided ~~on-site~~onsite is ~~ten-(10)~~ percent of the tract area. Any parcel of land dedicated to the City pursuant to this subsection must be a minimum of ~~twenty thousand (20,000)~~ square feet. It is the Director of Recreation and Park's sole discretion to determine whether to accept the dedication of land and whether land is usable public parkland. Trees planted on the land to be dedicated to the City may count towards the minimum tree cover requirement, but the ~~City Forester~~Forestry Official must approve any such planting.
- (4) For a champion project, as defined ~~in the chapter~~Chapter 25 ~~of the City Code~~, the Mayor and Council, at the time a project plan resolution is approved, may establish the minimum tree cover to be provided ~~on-site~~onsite. The minimum tree cover for a champion project can be established at no less than five ~~(5)~~ percent of the tract area.
- (5) Replacement trees, reforestation, afforestation and existing trees can be used to satisfy tree cover requirements. Tree cover requirements shall be calculated and shown on the ~~Forest Conservation Plan~~FCP.

- (e) The ~~Forest~~ Conservation Manual may provide for implementation of tree replacement, reforestation, and afforestation requirements in stages tied to phased development activity. Tree replacement, reforestation, and afforestation shall be accomplished within one (1) year or two (2) growing seasons after completion of the development project, as specified on the approved ~~Forest Conservation Plan~~FCP.

~~(Ord. No. 12-07, 7-16-07; Ord. No. 10-09, § 3, 3-23-09; Ord. No. 21-09, 10-12-09; Ord. No. 23-15, 8-3-15; Ord. No. 18-18, 10-15-18)~~

- (f) ~~Upon meeting the reforestation and afforestation requirements in this section, all unforested riparian buffers onsite must be afforested and reforested, unless the Forestry Official finds, based on information provided by the applicant, that afforestation or reforestation in the riparian buffer:~~

- ~~(1) Would be in conflict with allowable uses as established for the riparian buffer;~~
- ~~(2) Is located on City park property and conflicts with the mission and established stewardship practices of the Department of Recreation and Parks; or~~
- ~~(3) Is not suitable for the establishment and retention of the required planting materials, in which case the applicant must implement substitute environmental protection measures approved by the Forestry Official.~~

- (g) ~~A minimum of 80% of all trees planted by or on behalf of an applicant to satisfy the requirements of this section must be native trees. To the extent possible, forest conservation requirements should be met using a diversity of tree species.~~

Sec. 10.5-23. Preferred sequence and priorities for tree replacement, reforestation and afforestation.

- (a) Tree replacement, reforestation and afforestation, where possible, shall be provided for in the following preferred sequence:
- (1) Selective clearing and supplemental planting ~~on-site~~ onsite;
 - (2) Onsite planting using transplanted or nursery stock that is equal to or greater than one inch caliper;
 - (3) Landscaping of areas ~~on-site~~ onsite under an approved landscaping plan ~~and~~ and
 - ~~(4) Offsite planting using transplanted or nursery stock that is equal to or greater than one inch caliper.~~
- (b) The following are considered a priority for reforestation and afforestation, and are to be employed in the following preferred sequence:
- (1) Establish or enhance stream buffer areas;
 - (2) Establish or enhance forested areas on 100-year floodplains;
 - (3) Establish or increase connections between forested areas;
 - (4) Establish or enhance forest buffers adjacent to critical habitats;
 - (5) Stabilize steep slopes;
 - (6) Increase the overall area of contiguous forest cover;
 - (7) Enhance nontidal wetlands;
 - (8) Use native plant materials;
 - (9) Establish or enhance buffers between differing land uses or adjacent to highways or utility rights-of-way;
 - (10) Establish or enhance forested buffers adjacent to parkland.

~~(Ord. No. 12-07, 7-16-07)~~

Sec. 10.5-24. Payment in lieu of tree replacement, reforestation and afforestation.

- (a) If an applicant provides written justification demonstrating that tree replacement, reforestation or afforestation cannot be reasonably accomplished ~~on-site~~ onsite or offsite, the applicant may, with the approval of the ~~City Forester~~ Forestry Official, contribute to the City's Forest Conservation Fund and Park Maintenance Fund an amount in lieu of tree replacement, reforestation or afforestation as set forth in the Forest Conservation Manual. ~~Said~~ The applicant's justification must contain the following information:
- (1) How planting space is limited to accommodate one ~~(1)~~ or more of the following:
 - ~~ia.~~ Right-of-way dedications;
 - ~~ii.~~ Site access;
 - ~~iii.~~ Access to the tract;
 - ~~c.~~ Utility connections; or
 - ~~iv.~~ Other City development standards.

(2) Why the development cannot be altered to provide adequate planting space. Cost, alone, or the desire not to alter preferred site design shall not be sufficient justification for not altering the development to preserve priority retention areas.

(3) How the minimum tree cover requirement, as determined by the afforestation threshold, is being met ~~on-site~~onsite.

(4) How the applicant has been unable to reasonably secure offsite area within the municipal boundaries of the City to accommodate afforestation or reforestation.

(b) The City may use funds from the City Forest Conservation Fund for those purposes authorized by COMAR 08.19.02.02(I). Funds shall not be used to plant or maintain trees on single dwelling unit residential lots.

(c) The City may use the funds from the Park Maintenance Fund for the purposes of installing, maintaining, and replacing trees, shrubbery, and other landscaping on City-~~owned~~ parkland, right-of-way, and other City-owned property. Maintenance may include control and eradication of invasive/exotic plants. Funds shall not be used for the installation, maintenance, or replacement of any hardscape, except to the extent that such hardscape is deemed by the City Forestry Official to be necessary to protect and preserve plant material.

~~(Ord. No. 12-07, 7-16-07; Ord. No. 24-07, 10-22-07; Ord. No. 10-09, § 3, 3-23-09; Ord. No. 21-09, 10-12-09)~~

~~Editor's note(s) — Ord. No. 24-07, adopted October 22, 2007, changed the title of section 10-5-24 from "Payment in lieu of reforestation and afforestation" to "Payment in lieu of tree replacement, reforestation and afforestation."~~

ARTICLE IV. ~~FOREST CONSERVATION, MAINTENANCE AND MANAGEMENT~~ AGREEMENTS

Sec. 10.5-25. ~~Short term maintenance~~Maintenance agreements.

(a) Where significant tree replacement, reforestation, or afforestation is required, the ~~Final Forest Conservation Plan~~final FCP must include a binding five-year maintenance agreement ~~as specified in COMAR 08.19.05.01 and the Forest Conservation Manual~~.

(b) The maintenance agreement shall provide for the maintenance of all trees planted in accordance with an approved ~~Final Forest Conservation Plan to insure~~final FCP to ensure their protection and the satisfactory establishments of forests. The maintenance agreement shall require replacement plantings if survival rates fall below required standards as provided in the ~~State's~~State Forest Conservation Technical Manual and shall provide for access by representatives of the City to the afforested and reforested areas and other areas covered by the maintenance agreement. The maintenance agreement shall require eradication and control of non-native and invasive plants as identified on the City's Non-Native and Invasive Plant List for the duration of the maintenance period.

(c) The applicant shall submit documentary evidence of the applicant's legal right to implement the proposed maintenance agreement.

~~(d) — The~~(d) Upon a biennial inspection during the spring and fall planting seasons, the maintenance period may be extended for additional growing seasons to ensure that:

- (1) Supplemental planting needed to meet forest conservation requirement becomes established;
- (2) Effective exotic and non-native invasive control is completed; and

- (3) All aspects of the ~~Approved Forest Conservation Plan~~approved forest conservation plan have been satisfactorily met.

~~(e) — The (e)~~ Except where the City is the applicant, the maintenance agreement shall be accompanied by a bond issued by a surety company authorized to do business in ~~the state~~Maryland, or an irrevocable letter of credit issued by a financial institution authorized to do business in ~~the state~~Maryland, or such other security satisfactory to the ~~City Manager~~Forestry Official and the City Attorney in an amount equal to the estimated cost of significant tree replacement, afforestation, and reforestation ~~for~~ the amount of the contribution due the City Forest Conservation Fund~~;~~, plus the estimated cost of forest and significant tree protection measures.

- (1) The bond or other security shall run to the Mayor and Council and shall secure that the retention, tree replacement afforestation, reforestation and maintenance agreement are conducted and maintained in accordance with the approved ~~Forest Conservation Plan~~FCP or that the required contributions have been made to the City Forest Conservation Fund.
- (2) The security shall be released upon the determination of the ~~City Forester~~Forestry Official that all requirements of the ~~Forest Conservation Plan~~FCP and the ~~short-term~~ maintenance agreement have been fulfilled. The security may be partially released based on the successful implementation of phases of the ~~Conservation Plan~~FCP, if the maintenance agreement provides for ~~said~~ partial release.
- (3) The security may be subject to forfeiture upon the failure of the applicant to comply with:
- a. An administrative order pertaining to the approved ~~Forest Conservation Plan~~FCP; ~~or~~
- b. Any element of the approved ~~Forest Conservation Plan~~FCP;
- (4) The ~~City Manager~~Forestry Official shall notify the obligee by certified mail, of the intention of the City to seek forfeiture of the security.

~~(Ord. No. 12-07, 7-16-07; Ord. No. 21-09, 10-12-09)~~

Sec. 10.5-26. Long term agreement.

- (a) The ~~Final Forest Conservation Plan~~final FCP must include a long-term ~~binding agreement as specified in COMAR 08.19.05.02 and in a form satisfactory to the City Attorney, providing for the preservation and protection of areas retained, afforested, or reforested and significant tree replacements~~protective agreement consistent with an approved ~~Final Forest Conservation Plan~~final FCP in a form approved by the Office of the City Attorney.
- (b) A long-term protective agreement shall contain ~~provisions for enforcement of the agreement~~provisions, including provisions for the collection of attorney's fees incurred in such enforcement action.
- ~~(c) — An, except where the City is the applicant may satisfy the requirement for long-term protective agreement by executing a forest conservation and management agreement, as provided in the Annotated Code of Maryland, Tax Property Article, Section 8-211.~~
- ~~(d) — The long-term agreement shall be accompanied by those legal instruments necessary to effectuate such agreement, such as conservation easements, deed restrictions, covenants and other agreements.~~
- ~~(e)(c)~~ Any final subdivision plat or detailed development plan for the subject tract approved on or after January 1, 1993 shall show the areas ~~held under such~~subject to a long-term protective agreements.

~~(Ord. No. 12-07, 7-16-07)~~

Secs. 10.5-27—10.5-30. Reserved.

ARTICLE V. INDIVIDUAL TREE REMOVAL

Sec. 10.5-31. Trees in public right-of-way.

Trees within the public-right-of-way are subject to the State's Roadside Tree Law, as ~~currently~~ set forth in the Natural Resources Article ~~of the Annotated Code of Maryland §§ 5-401 through 5-406, and as subsequently amended.~~

~~(Ord. No. 12-07, 7-16-07)~~

Sec. 10.5-32. Trees on private property.

~~(a) This section does not apply to the removal of any significant tree located on a single-family residential lot that is not otherwise subject to the provisions of this chapter, except that the portion of a public right-of-way abutting a single dwelling unit residential lot is subject to section 10.5-31.~~

~~(b) Except as provided in subsection (b), below, it is unlawful for any person to remove any significant tree on private property, including trees located within utility easements, not otherwise covered by a Forest Conservation Plan or FCP, without first receiving a permit from the City Forester/Forestry Official.~~

~~(b) This section does not apply to the removal of any significant tree located on a lot improved with an existing single dwelling unit, unless such tree is subject to an existing FCP or if such tree is within a public right-of-way and subject to section 10.5-31.~~

(c) The ~~City Forester~~Forestry Official shall issue a permit if one ~~(1)~~ of the following conditions exist:

- (1) The tree is dead or dying, or in danger of falling;
- (2) The tree is diseased, insect infested, or injured and cannot reasonably be restored;
- (3) The tree constitutes a hazard to the safety of persons or threatens injury to property, including other trees.
- (4) Removal of a tree is required for the maintenance of a utility. Unless otherwise prohibited by law, the ~~City Forester~~Forestry Official may require that significant trees removed be replaced in accordance with the tree replacement rates set forth in subsection 10.5-23(a)(1), or that payment be made to the City's Forest Conservation Fund in lieu of significant tree replacement.

(d) If none of the conditions contained in subsection (c) exist, a permit may be issued only upon the condition that the tree removed be replaced in accordance with the tree replacement rates set forth in subsection 10.5-22(a)(1), or that payment be made to the City's Forest Conservation fund in lieu of significant tree replacement, or a combination of tree replacement and fee in lieu payment occurs, pursuant to the Forest Conservation Manual.

~~(Ord. No. 12-07, 7-16-07; Ord. No. 10-09, § 4, 3-23-09)~~

ARTICLE VI. ENFORCEMENT

Sec. 10.5-33. Inspections.

- (a) The ~~City Forester and other representatives of the City designated by the City Manager~~Forestry Official may enter property subject to this ~~chapter~~Chapter for the purpose of inspection and enforcement. The timing and frequency of the inspections shall be at the discretion of the ~~inspector~~Forestry Official, except that the following inspections must take place:
- (1) Before any land disturbing activities occur on the tract;
 - (2) Following completion of all land disturbing activities and tree replacement, afforestation or reforestation covered by the ~~Forest Conservation Plan~~FCP; and
 - (3) At the end of the time period covered by the maintenance agreement.
- (b) No land disturbing activity shall commence and no bond or security shall be released until ~~an inspection~~the Forestry Official has ~~been conducted~~an inspection.
- ~~(Ord. No. 12-07, 7-16-07)~~

Sec. 10.5-34. Penalties and other remedies.

- (a) Pursuant to Section 6-1612 of the Natural Resources Article ~~of the Annotated Code of Maryland~~, a fine in the amount of ~~one thousand dollars (\$1,000.00)~~ may be imposed for each violation of this ~~chapter~~Chapter, including any violation of an approved ~~Forest Conservation Plan~~FCP, which fine may be recovered in a civil action brought by the City. Each day a violation continues is a separate violation.
- (b) In addition, the City shall have available to it all those remedies set forth in sections 1-9 and 1-11 of this Code.
- (c) In addition to any of the foregoing remedies, the ~~City, through its appropriate commissions, departments, agencies, or other representatives, may~~Forestry Official may, in response to any violation:
- (1) Issue a stop-work order until the violation has been abated, and/or any fine or penalty imposed has been paid, except that a stop work order shall be lifted with respect to any fine or penalty from which an appeal has been filed pursuant to section 10.5-35 of this ~~chapter~~Chapter;
 - (2) Initiate forfeiture proceedings of security posted;
 - (3) Order corrective action to restore or reforest an area;
 - (4) Revoke a covered ~~permit or covered~~ approval issued conditioned on compliance with this ~~chapter~~Chapter. Revocation of any covered ~~permit or~~ approval due to non-compliance with an approved ~~conservation plan~~FCP or any other violation of this ~~chapter~~Chapter shall be conducted in the same manner as a revocation proceedings for other reasons;
 - (5) Assess an administrative penalty in the amount of ~~thirty cents (\$0.30)~~ per square foot of the area found to be in non-compliance with required forest conservation. Payment of such an administrative penalty shall become a condition of the covered ~~permit or~~ approval.
- (d) When practical under the circumstances, the ~~City Forester~~Forestry Official shall issue an administrative notice of violation requiring the violator to take corrective action and/or pay a fine and/or penalty within a certain period of time. The violator shall thereafter be given an opportunity to consult with the ~~City Forester~~Forestry Official prior to any further enforcement action being taken. Service of the administrative notice shall be made on the alleged violator personally, on the violator's agent at the activity site, or by certified mail to the violator's last known address. If, after reasonable efforts, service cannot be made in the foregoing manner, it shall be made by posting the administrative notice at the ~~site~~tract which is the subject

of the covered ~~permit or~~ approval and by regular mail to the violator's last known address. If the violator is different from the applicant for the covered ~~permit or~~ approval, the copy of the administrative notice of violation shall also be served upon said applicant.

(Ord. No. 12-07, 7-16-07)

Sec. 10.5-35. Appeals.

Any person aggrieved by a final decision of the ~~City Forester~~ Forestry Official pursuant to this ~~chapter~~ Chapter may ~~appeal said decision to the Board of Appeals~~ file a petition for judicial review in the same manner as other decisions of administrative officials are appealed. Any person aggrieved by any decision of the Board of Appeals may appeal the same to the Circuit Court of Montgomery County. Such appeal shall be taken according ~~to~~ accordance with the Maryland Rules ~~as set forth in Title 7, Chapter 200~~ not later than 30 days after the decision is issued.

(Ord. No. 12-07, 7-16-07)

~~CHAPTER~~Chapter 10.5 FOREST AND TREE PRESERVATION¹

ARTICLE I. IN GENERAL

Sec. 10.5-1. Purpose.

The purpose of this Chapter is to:

- (1) Encourage the preservation and enhancement of the City's urban forests.
- (2) Replace tree cover in non-forest areas within the City.
- (3) Establish procedures, standards and requirements that protect trees and forests during and after development activity and minimize tree loss due to development activity.
- (4) Establish procedures, standards and requirements for afforestation and reforestation of land within the City.
- (5) Meet the requirements of Sections 5-1601 through 5-1613 of the Natural Resources Article.

Sec. 10.5-2. Scope.

Except as otherwise provided, this Chapter applies to all applications for a covered approval as defined in section 10.5-5 of this Chapter made on or after January 1, 1993.

Sec. 10.5-3. Interpretation.

- (a) All references in this Chapter to provisions of the Annotated Code of Maryland shall refer to the provisions as they currently exist and as they may be amended.
- (b) References to COMAR are to the Code of Maryland Regulations and refer to the referenced provisions of those regulations as they currently exist and as they may be subsequently amended.
- (c) The provisions of this Chapter shall be interpreted and applied in conjunction with the Forest Conservation Manual. In the event of any conflict between the provisions of this Chapter and those of the Forest Conservation Manual, this Chapter shall govern.

Sec. 10.5-4. Administration.

- (a) *The Mayor and Council.* The Mayor and Council shall:

- (1) Establish by resolution fees to cover the cost of administering this Chapter~~;~~

- (b) *The City Manager.* The City Manager shall:

- (1) Designate a Forestry Official to interpret and administer the provisions of this Chapter;

(2) ~~Adopt~~Prepare and submit the reports required by resolution~~section 5-1613 of the Natural Resources Article;~~

(3) Promulgate and keep current a Forest Conservation Manual which ~~shall meet~~meets the minimum requirements of the State Forest Conservation Technical Manual and ~~shall include, but not be limited to;~~includes:

- a. Standards for preparing and evaluating ~~a Natural Resources Inventory/Forest Stand Delineation;~~an NRI/FSD;
- b. Standards for preparing and evaluating a forest conservation plan, including priorities for retention, reforestation, and afforestation;
- c. A recommended native tree species list of the Mid-Atlantic Region;
- ~~dd.~~ A list of tree species that may not be used to satisfy the planting requirements of this Chapter. This list must include, at a minimum, all trees identified by the Maryland Department of Natural Resources as invasive. This list must not include any native tree, unless such tree is identified by the Forestry Official as presenting severe growth challenges, including, but not limited to, susceptibility to critical pest infestation, disease, or hazardous growth;
- e. Forest and tree protective measures to be provided ~~prior~~before, during, and after clearing or construction; and
- ef. Other standards, requirements, and clarifications consistent with this Chapter.

~~(b) The City Manager. The City Manager shall:~~

- ~~(1) Designate a Code Administrator to interpret and administer the provisions of this Chapter.~~
- ~~(2) Prepare and submit the reports to the Senate Environmental Affairs Committee and the House Environmental Matters Committee required by section 5-1613 of the Natural Resources Article.~~
- ~~(3) Develop and approve procedures and policies necessary to administer this Chapter.~~
- (4) Execute maintenance agreements pursuant to this Chapter on behalf of the Mayor and Council.

(c) ~~The Code Administrator. The Code Administrator~~Forestry Official. The Forestry Official shall:

- (1) Review and approve or disapprove NRI/FSDs, forest conservation plans, tree save plans, and other submissions, as provided for by this Chapter;
- (2) Interpret and apply the standards of this Chapter and the Forest Conservation Manual;
- (3) Develop technical standards and specifications for forest and tree protective measures and planting of trees and forests;
- (4) Inspect properties to determine compliance with approved forest conservation plans, tree save plans, and the provisions of this Chapter;
- (5) Issue tree removal permits in accordance with section 10.5-32; and
- (6) Assess fines and administrative penalties pursuant to section 10.5-34.

Sec. 10.5-5. Definitions.

For purposes of this Chapter, the following words, terms and phrases shall have the meaning respectively ascribed to them as set forth below. Any word, term, or phrase not defined herein shall have the meaning ascribed to it in state law or regulation.

Abutting and adjacent means sharing a common property boundary. Two properties are considered abutting and adjacent if they are separated by a public right-of-way.

Afforestation means the establishment of tree cover on an area from which it has always or very long been absent, or the planting of open areas which are not presently in forest cover.

Afforestation level is the percentage of a tract that is required to be forested under section 10.5-22 of this Chapter.

Applicant means a person who applies for a covered approval as defined in this section.

Approval or *approved*, when referring to the approval of an NRI/FSD or a preliminary or final FCP, means approval by the ~~Code Administrator.~~

~~*Break-even point* means the point at which forest conservation requirements can be met solely through forest retention.~~Forestry Official.

Caliper means the diameter measured in inches measured at six inches above the root collar.

Champion tree means the largest tree of its species within the United States, the State, county, or municipality.

Chapter means a chapter of the Rockville City Code.

City means the City of Rockville.

City Manager means the person appointed by the Mayor and Council of Rockville to serve as the City Manager pursuant to Article VI of the City Charter.

~~*Code Administrator* means the person or persons designated in by the City Manager to fulfill the responsibilities of the Code Administrator under this Chapter.~~

COMAR means the Code of Maryland Regulations.

Covered approval means a sediment control permit, a subdivision plan (preliminary or final), a site plan, a project plan, or an amendment to any of the foregoing, or an amendment to a planned development.

Critical habitat area means a critical habitat for a threatened or endangered species and its surrounding protection area. A critical habitat area is an area that:

- (1) Is likely to contribute to the long-term survival of the species;
- (2) Is likely to be occupied by the species for the foreseeable future; and
- (3) Constitutes a habitat of the species which is considered critical under sections 4-2A-04 and 10-2A-04 of the Natural Resources Article.

Critical root zone means the zone in which the majority of a tree's roots lay, as calculated by the Forest Conservation Manual.

DBH means the diameter of a tree's main trunk or stem, rounded to the nearest inch and measured four and a half feet above ground level.

Declaration of intent means a statement executed and recorded among the Land Records by a property owner verifying that proposed activity is either exempt or excepted, in whole or in part, from a requirement of this Chapter, and shall contain the following:

- (1) Satisfactory assurances of limited or no additional development activity on the tract;
- (2) An agreement to comply with the provisions of this Chapter at such time as any additional development occurs on the property; and

(3) Such other provisions deemed appropriate by the City.

Development activity means grading, excavation, or construction activities, including redevelopment.

Environmental Guidelines means guidelines adopted by resolution of the Mayor and Council for the protection and enhancement of the ~~City's~~City's natural resources.

Forest means a contiguous stand of trees that is at least 5,000 square feet in size exhibiting at least one transect of at least 50 feet in width, including areas that have been cut but not converted to other land uses.

Forest conservation means the retention of existing forest or the creation of new forest at the levels set by the City.

Forest conservation and management agreement means an agreement as stated in the Tax-Property Article, § 8-211, Annotated Code of Maryland.

Forest conservation plan or *FCP* means a plan providing for the protection, maintenance, replacement, reforestation, and afforestation of the forest as provided in this Chapter. A forest conservation plan includes a preliminary forest conservation plan, an amended forest conservation plan, and a final forest conservation plan.

Forest Conservation Manual means the manual adopted by resolution of the Mayor and Council containing technical specifications and standards of performance used in the implementation of this Chapter, including the preparation of NRI/FSDs and ~~forest conservation plans~~FCPs.

Forest cover means the area of a tract meeting the definition of forest.

Forestry Official means the person or persons designated by the City Manager to fulfill the responsibilities of the Forestry Official under this Chapter. The Forestry Official must be a Qualified Professional.

Intermittent stream means a stream in which surface water is absent during a portion of the year as shown on the most recent seven and one-half minute topographic quadrangle published by the United States Geologic Survey as confirmed by field verification.

Land Records means the Land Records of Montgomery County, Maryland.

Limits of disturbance means the limits of disturbance delineated in a sediment control permit pursuant to Chapter 19 or, where a sediment control permit is not required, the area within which all construction, grading, excavating, and clearing will occur.

Linear project means a project whose configuration is elongated with nearly parallel sides and used to transport a utility product or public service not otherwise contained in an application for subdivision, such as electricity, gas, water, sewer, communications, trains, and vehicles. Linear projects may traverse fee simple properties through defined boundaries or through easement rights.

Long-term protective agreement means a long-term measure to protect all land forested, afforested, reforested, or retained as forest, or trees required to be planted, under this Chapter, consistent with the requirements of COMAR 08.19.05.02.

Maintenance agreement means an agreement between an applicant and the City that details how the areas designated for afforestation, reforestation, forest retention, and other tree plantings required by this Chapter will be maintained to ensure protection or satisfactory establishment of tree plantings for a minimum of five years in a manner consistent with the requirements of COMAR 08.19.05.01.~~A.~~

Native tree means a tree native to the Mid-Atlantic region, as identified in the Forest Conservation Manual.

Natural Resources Article means the Natural Resources Article of the Maryland Annotated Code.

Natural Resources Inventory/Forest Stand Delineation or *NRI/FSD* means the information necessary to allow an evaluation of existing natural resources on a tract for conformance with this chapter. An NRI/FSD must be a complete analysis of existing natural features, forest, and tree cover on a site. Natural features include

topography, steep slopes, perennial, intermittent and ephemeral streams, major drainage courses, 100-year floodplains, wetlands, soils and geological conditions, critical habitats, aerial extent of forest and tree cover, cultural features and historic sites and necessary buffers, as provided in this chapter and the Forest Conservation Manual.

Nontidal wetlands means an area that is:

- (1) Inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation; and
- (2) Considered a nontidal wetland in accordance with the publication known as the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands," published in 1989 and as may be amended and interpreted by the U.S. Environmental Protection Agency.

"Nontidal wetlands" does not include tidal wetlands regulated under Title 9 of the Natural Resources Article.

Offsite means outside of the limits of the area encompassed by a tract, but within City limits.

100-year floodplain means an area along or adjacent to a stream or body of water, except tidal waters, that is capable of storing or conveying floodwaters during a 100-year frequency storm event.

Onsite means within the limits of the area encompassed by a tract, including an area classified as a 100-year floodplain.

Park buffer means an area of separation that preserves the integrity of a park/recreation area by preventing physical or aesthetic encroachment from adjoining land uses, as further defined and described in the Environmental Guidelines.

Person means the federal government, the State, a county, municipal corporation, or other political subdivision of the State, or any of their units, or an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any of their affiliates, or any other entity.

Planned development means development activity located in a planned development zone as set forth in Chapter 25.

Priority retention areas means those areas identified in subsection 10.5-21(b) as priority areas for forest and tree retention and protection.

Qualified ~~preparer~~Professional means an individual qualified to prepare an NRI/FSD and ~~a forest conservation plan~~ *an FCP*, including a licensed Maryland Forester, a licensed landscape architect, and any individual who otherwise meets the standards for a qualified professional as specified in COMAR 08.19.06.01, as may be amended.

Reforestation or reforested means the replacement of removed forested areas by the creation of a biological community dominated by trees and other woody plants containing at least 100 live trees per acre with at least 50 percent of those trees having the potential of attaining a two-inch or greater DBH measured at four and one-half feet above the ground, within seven years; or establishment of a forest according to procedures set forth in the Forest Conservation Manual.

Retention means the deliberate protection of existing trees, shrubs or plants on a tract according to established standards as provided in the Forest Conservation Manual.

Significant tree means a champion tree, a specimen tree, or a tree located within a forest with a DBH of 24 inches or more, a tree located outside of a forest with a DBH of 12 inches or more, or a tree with a DBH of six inches or more located within the limits of disturbance or within 25 feet of the limits of disturbance. Trees identified as invasive, in accordance with section 10.5-4(b)(5), are not significant trees.

Single dwelling ~~unit~~ means unit means a structure containing not more than one dwelling unit. This term includes townhouses and semi-detached dwellings located on separate lots and *single* dwelling units that are modified to include an accessory dwelling unit.

Solar photovoltaic facility means a facility composed of one or more solar panels combined with an inverter and other electrical and mechanical components that use energy from the sun to generate electricity for commercial sale.

Specimen tree means a tree with a DBH equal to or greater than 30 inches or that is 75 percent of the DBH of the state champion tree of that species.

State Forest Conservation Technical Manual means the Forest Conservation Technical Manual prepared for the Maryland Department of Natural Resources for use in the implementation of the 1991 Forest Conservation Act, as it currently exists and as it may be subsequently amended.

Stream buffer means a strip of natural vegetation contiguous with and parallel to the bank of a perennial or intermittent stream and designed to protect the stream, as further defined and described in the Environmental Guidelines.

Stream restoration project means an activity that:

- (1) Is designed to stabilize stream banks or enhance stream function or habitat located within an existing stream, waterway, or floodplain;
- (2) Avoids and minimizes impacts to forests and provides for replanting onsite an equivalent number of trees to the number removed by the project;
- (3) May be performed under a municipal separate storm sewer system permit, a watershed implementation plan growth offset, or another plan administered by the State or local government to achieve or maintain water quality standards; and
- (4) Is not performed to satisfy stormwater management, wetlands mitigation, or any other regulatory requirement associated with proposed development activity.

Street tree means any tree planted in the public right-of-way or within a public access easement granted to the City for a private street.

Subdivision means a subdivision of land as defined in Chapter 25, except that subdivision does not include the creation of ownership lots as that term is defined in Chapter 25.

Tract means a property or unit of land for which an application for a covered approval is filed. A tract may consist of one or more lots or parcels of land.

Tract area means the total area of a tract, including both forested and non-forested areas, to the ~~nearest~~ 100 square feet.

Tree means a large, branched woody plant having one or several self-supporting stems or trunks and numerous branches that reach a height of at least 20 feet at maturity.

Tree replacement means replacement of individual trees removed.

Tree save plan means a plan providing for the analysis, protection, maintenance, and supplementation of existing natural features and resources on a tract, in accordance with the Forest Conservation Manual.

Watershed means all land lying within an area described as a subbasin in water quality regulations adopted by the Maryland Department of the Environment under COMAR 26.08.02.08.

Secs. 10.5-6—10.5-10. Reserved.

ARTICLE II. NRI/FSDS AND FOREST CONSERVATION PLANS

Sec. 10.5-11. General requirements.

- (a) Except as provided in subsection (b) of this section, an applicant must submit an NRI/FSD and a forest conservation plan as part of, or in connection with, a covered approval.
- (b) An applicant is exempt from the requirements of subsection (a) for the following activities:
 - (1) Any activity conducted on one lot improved or proposed by an applicant to be improved with a single dwelling unit, provided that:
 - ~~(i) a.~~ The activity does not result in the cumulative cutting, clearing, or grading of more than 20,000 square feet of forest;
 - ~~(ii) b.~~ The activity will not result in the cutting, clearing, or grading of any forest or trees that were subject to the requirements of a previous final forest conservation plan approved under this Chapter;
 - ~~(iii) c.~~ The activity does not require the subdivision of land; and
 - ~~(iv) d.~~ For activity including the construction of a new single dwelling unit or the demolition, repair, or renovation of more than 50 percent of the floor area of an existing single dwelling unit, the applicant is required to plant or preserve at least three trees, consistent with the Forest Conservation Manual, on the lot where the activity is proposed~~;~~.
 - (2) Where a final forest conservation ~~plan was plan was~~ approved within the preceding five years in connection with the same activity, unless the ~~Code Administrator~~Forestry Official determines that there has been a significant alteration in the environment of the tract or change in applicable law, policy, or regulation since the approval of the final forest conservation plan~~;~~.
 - (3) Any activity that does not result in the disturbance of 5,000 square feet or greater of land area or 100 or more cubic yards of earth, impact the critical root zone of any significant tree, or impact the critical root zone of any tree subject to the requirements of a previous forest conservation plan approved under this Chapter.
 - (4) Where an application for subdivision of a tract is filed for the purpose of facilitating the financing or transfer of the tract or portion thereof, and where no additional development on the tract occurs, provided that the property owner executes and records among the Land Records a Declaration of Intent and/or such other documents, acceptable in form and content to the ~~Code Administrator~~Forestry Official and the City Attorney~~,~~ setting forth the obligation for compliance with this ~~Chapter~~chapter in connection with future development of the tract~~;~~.
 - (5) Any activity requiring a site plan, project plan, or site plan or project plan amendment, for which a sediment control permit is not required, unless the proposed activity shows disturbance within or adjacent to the critical root zone of one or more significant trees or trees protected by an existing forest conservation plan~~;~~.
 - (6) Any activity on publicly-owned property required to install electric vehicle charging infrastructure, solar panels, or improvements necessary to comply with the Americans with Disabilities Act, provided that the activity is within an area previously improved with impervious surfaces and the applicant has received approval of a tree save plan.

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- (7) A stream restoration project, provided that the applicant has received approval of a tree save plan and executed a binding maintenance agreement of at least five years with the affected property owner where the applicant and the property owner are not the same.
 - (8) The cutting or clearing of public utility rights-of-way for electric generating stations licensed pursuant to sections 7-204, 7-205, 7-207, or 7-208 of the Public Utilities Article of the Annotated Code of Maryland, provided that:
 - ~~(i)~~ a. Any required certificates of public convenience and necessity have been issued in accordance with §-5-1603(f) of this subtitle; and
 - ~~(ii)~~ b. The cutting or clearing of the forest is conducted so as to minimize the loss of forest.
 - (9) Routine maintenance of public roads and utility rights-of-way that does not result in the cutting, clearing, or grading of more than 10,000 square feet of forest or any forest or significant trees subject to the requirements of a previous forest conservation plan approved under this Chapter.
 - (10) Linear projects that do not result in the cutting, clearing, or grading of more than 10,000 square feet of forest or any forest or significant trees subject to the requirements of a previous forest conservation plan approved under this Chapter.
 - (11) The maintenance or retrofitting of a stormwater management structure that may include clearing of vegetation or removal and trimming of trees, so long as the maintenance or retrofitting is within the original limits of disturbance for construction of the existing structure, or within any maintenance easement for access to the structure.

~~(12) Forest management.~~

- (c) The NRI/FSD and FCP required by this section shall be prepared by and exhibit the stamp/certification and signature of a ~~qualified preparer~~ Qualified Professional.
- (d) No application for a covered approval is complete until the submissions required by this Chapter are accepted as complete by the ~~Code Administrator~~ Forestry Official. The ~~Code Administrator~~ Forestry Official may accept submissions substantially consistent with the purpose of this Chapter and ~~Sections~~ sections 5-1602 through 1612 of ~~the~~ Natural Resources Article ~~of the Annotated Code of Maryland~~.
- (e) All covered approvals shall be issued conditioned on approval of and compliance with aan FCP.

Sec. 10.5-12. Criteria for NRI/FSDs.

- (a) An NRI/FSD encompassing the entire tract, or such portion of the tract as may be approved by the ~~Code Administrator~~ Forestry Official, shall be used during the preliminary review of an application for a covered approval to determine the most suitable and practical areas for forest conservation and shall serve as the basis for aan FCP.
- (b) An NRI/FSD ~~must~~ shall contain the following information:
 - (1) A completed application form supplied by the City and signed by the applicant, the property owner, and the ~~qualified preparer~~ Qualified Professional.
 - (2) A site vicinity map showing the location of the tract in relation to other properties within approximately one square mile or more, including forested and sensitive areas adjacent to the tract;

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- (3) An environmental features map, also known as ~~an~~ NRI/FSD Map, exhibiting a stamp/certification and signature of the ~~qualified preparer~~ Qualified Professional. The NRI/FSD Map shall be prepared at the same scale as the proposed development plan and shall show the following:
- a. One hundred-year nontidal floodplains in watersheds 400 acres or larger, or for class III streams;
 - b. Intermittent streams and perennial streams, including buffers required by the Environmental Guidelines;
 - c. Steep slopes of 25 percent or more;
 - d. Critical habitat areas;
 - e. Nontidal or tidal wetlands, including buffers required by the Environmental Guidelines;
 - f. Topographic contours and intervals;
 - g. Hydric soils, erodible soils on slopes of 15 percent or more, and soils with structural limitations as classified by USDA soil surveys;
 - h. Survey location of all significant trees;
 - i. A significant tree summary table identifying the species, size, and description of condition of all significant trees located on the map;
 - j. Identification of critical root zones extending from trees located on adjacent tracts, including the location, species and condition estimate of the trees;
 - k. A statement noting the presence or absence of rare, threatened or endangered species;
 - l. A statement noting the presence or absence of cultural and/or historic resources;
 - m. Forest suitable for forest interior-dwelling species; and
 - n. Forest that ~~are~~ is most important for providing wildlife habitat or mitigating flooding, high temperatures, or air pollution.
- (4) Such additional information required by the Forest Conservation Manual for simplified and full NRI/FSDs; and
- (5) Such other information that the ~~Code Administrator~~ Forestry Official determines is necessary to implement this Chapter.
- (c) The Forest Conservation Manual shall set forth the criteria and requirements for submission of a simplified and full NRI/FSD.
- (d) The ~~Code Administrator~~ Forestry Official may accept an NRI/FSD that ~~substantially~~ complies with this Chapter and the Forest Conservation Manual and furthers the goals of this Chapter.
- (e) The submissions required by this section are in addition to any other submissions required in connection with the application for a covered approval. However, if any submission required by this section duplicates the submission required by any other law or ordinance, regulation, decision, or policy, only one submission of the same information is required.
- (f) An approved NRI/FSD may remain in effect and serve as the basis for a forest conservation plan for no longer than five years, except that the ~~Code Administrator~~ Forestry Official may require submission of a revised NRI/FSD if conditions on the tract or applicable law or regulations change within five years of the original approval.

Sec. 10.5-13. Criteria for forest conservation plans.

- (a) An FCP shall be based on an approved NRI/FSD and shall give priority to and provide for the protection and maintenance of any existing forest and significant trees within the area covered by the NRI/FSD which may be adversely affected by the proposed development activity on the tract.
- (b) Where the existing forest and individual significant trees cannot be retained, the FCP must provide for tree replacement, reforestation, and afforestation in accordance with Article III of this Chapter.
- (c) Preliminary FCP.
 - (1) Except where a development will disturb less than ten percent of a tract area, an applicant may submit a preliminary FCP in connection ~~with a. — A preliminary plan of subdivision; with:~~
 - a. A preliminary plan of subdivision;
 - b. A project plan or site plan;
 - c. ~~An applicant may also choose to submit a preliminary FCP in connection with any other covered approval.~~ c. Any other situation where the Forestry Official deems appropriate.
 - (2) Requirements. A preliminary FCP must contain the following information:
 - a. The approved NRI/FSD for the tract drawn to scale;
 - b. The applicable zone and pertinent reforestation and afforestation threshold levels.
 - c. A table of area sizes for the following:
 - (i) Existing tract area, floodplain area, and forest area.
 - (ii) Proposed areas of forest and tree retention.
 - (iii) Proposed areas of forest and tree removal.
 - (iv) Proposed areas of reforestation and afforestation.
 - d. A graphic delineation of the following areas:
 - (i) Proposed forest and significant tree retention areas.
 - (ii) Proposed afforestation and reforestation areas.
 - (iii) Proposed limits of disturbance.
 - e. Written justification for disturbance of priority retention areas, including the reasons why the priority retention areas cannot be retained and how disturbed priority retention areas will be replaced through afforestation and reforestation.
 - f. Written justification for the proposed use and location of non-priority retention areas and of onsite and offsite afforestation, reforestation, and/or tree replacement areas.
 - g. Such other information as may be required by this Chapter or the Forest Conservation Manual.
 - h. Such other information that the ~~Code Administrator~~ Forestry Official determines is necessary to implement this Chapter.
 - (3) No development activity may occur on any portion of a tract covered by a preliminary FCP without an approved final FCP for that portion of the tract.
 - (4) An approved preliminary FCP shall remain in effect and shall serve as the basis for the final FCP with respect to forest and tree retention for the duration of the validity period of the underlying approval,

unless the ~~Code Administrator~~Forestry Official determines that conditions on the tract have changed to the point where the preliminary approval is no longer accurate. Notwithstanding the foregoing, all final FCPs shall comply with all other aspects of this Chapter in effect at the time of the approval of the final FCP.

(d) Final FCP.

- (1) A final FCP must be submitted and approved prior to any development activity on a tract.
- (2) A final- FCP may be submitted for a portion of the area covered by an approved preliminary FCP, provided that the final FCP must include forested areas in their entirety and the boundaries of ~~the said~~ final FCP may not divide any forested area existing on the tract.
- (3) Requirements. A final- FCP must contain the following information:
 - a. All of the information required in subsection (c) and in the ~~Forest~~ Conservation Manual for a preliminary -FCP.
 - b. Details and specifications of protective devices and measures to be used prior to and during construction activities to protect forest and significant trees, including information pertaining to the locations, types, implementation, and maintenance of the protective measures.
 - c. A graphic delineation of the limits of disturbance and soil stockpile areas.
 - d. A critical root zone analysis, including root zones extending on the tract from adjacent property.
 - e. Such other information as may be required by the Forest Conservation Manual.
 - f. A maintenance agreement as described in section 10.5-25 to ensure protection and satisfactory establishment of forest and individual tree plantings for a minimum of five years that include biennial inspections in the ~~Springs~~spring and ~~the Fall~~fall seasons.
 - g. A long-term protective agreement as described in section 10.5-26 for the protection of areas of forest conservation, including areas of afforestation, reforestation, and retention.
 - h. Phasing and completion schedule for tree planting.
 - i. Such other information that the ~~Code Administrator~~Forestry Official determines is necessary to implement this Chapter.

(4) An approved Final Forest Conservation Plan is valid for five years, except that the Forestry Official may require submission of a revised FCP if tract conditions change within five years of the FCP approval.

Sec. 10.5-14. Submission, review and approval; revocation.

- (a) The NRI/FSD shall be submitted in connection with the application for the covered approval.
- (b) In conjunction with, or subsequent to, the approval of the NRI/FSD, the applicant shall submit a preliminary or final FCP.
- (c) The submitted NRI/FSD and -FCP shall be referred to the ~~Code Administrator~~Forestry Official for review.
 - (1) The ~~Code Administrator's~~Forestry Official's review shall be concurrent and coordinated with other aspects of the review of the application for the covered approval so as to maximize conservation and minimize tree loss.
 - (2) The ~~Code Administrator~~Forestry Official may require additional information and /or modifications, approve, approve with conditions, or disapprove the NRI/FSD and the -FCP.

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- (3) The submission of the NRI/FSD or- FCP shall not be complete until all information required by this Chapter, the Forest Conservation Manual, and such other information as may be required by the ~~Code Administrator~~Forestry Official is received by the ~~Code Administrator~~Forestry Official.
- (4) ~~If the Code Administrator fails to approve, disapprove, or request additional information and/or modifications to the NRI/FSD within review.~~
- a. ~~Within 30 days after its completed submission or resubmission, of receipt of an NRI/FSD, the Forestry Official shall notify the applicant in writing whether the NRI/FSD is complete and approved.~~
- b. ~~If the Forestry Official fails to provide the notice required by subsection a., the FCP shall be deemed approved.~~
- c. ~~The Forestry Official may provide for a 15-day extension to the 30-day deadline for extenuating circumstances by providing written notice to the applicant.~~
- d. ~~At the request of the applicant, the Forestry Official may also extend this deadline for extenuating circumstances.~~
- (5) *Forest conservation plan -review.*
- a. Within 45 days of receipt of an FCP, the ~~Code Administrator~~Forestry Official shall notify the applicant in writing whether the forest conservation plan is complete ~~and approved~~.
- b. If the ~~Code Administrator~~Forestry Official fails to provide the notice required by subsection a., the -FCP shall be deemed approved.
- c. The ~~Code Administrator~~Forestry Official may provide for a 15-day extension to the 45-day deadline for extenuating circumstances by providing written notice to the applicant.
- d. At the request of the applicant, the ~~Code Administrator~~Forestry Official may also extend this deadline for extenuating circumstances.
- e. The ~~Code Administrator~~Forestry Official must issue written findings and justification as part of the approval of any- FCP that includes clearing within a priority retention area.
- (6) Notice of clearing within priority retention areas. At least ~~2030~~ days before approval of a final FCP, the ~~Code Administrator~~Forestry Official must:
- a. Provide mailed notice to all property owners abutting and adjacent to the boundary of the tract of any proposed clearing of a priority retention area; and
- b. For a tract with a net area of at least five acres where at least 75% of the priority retention area is proposed to be cleared, provide an opportunity for public written and verbal comment before plan approval; or for any other project where priority retention area is proposed for clearing, provide an opportunity for public written comment before plan approval.
- (7) The ~~Code Administrator~~Forestry Official may:
- a. Require changes and modifications to the NRI/FSD and/or the -FCP as a condition of approval.
- b. Approve changes and modifications to the NRI/FSD and/or the -FCP if necessitated by changes in the development or in the condition of the tract.
- (8) An approved final FCP is valid for five years, except that the ~~Code Administrator~~Forestry Official may require submission of a revised final FCP if conditions on the tract change within five years of the final FCP approval.

(d) The Forestry Official may revoke an approved final FCP upon finding that:

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- (1) A provision of the final FCP has been violated;
 - (2) Approval of the final FCP was obtained through fraud, misrepresentation, a false or misleading statement, or omission of a relevant or material fact; or
 - (3) Changes in the development or in the condition of the tract necessitate preparation of a new or amended plan.
- (e) Before revoking approval of a forest conservation plan, the Forestry Official shall notify the violator in writing and provide an opportunity for a hearing.

Secs. 10.5-15—10.5-20. Reserved.

ARTICLE III. RETENTION, TREE REPLACEMENT, AFFORESTATION, AND REFORESTATION REQUIREMENTS

Sec. 10.5-21. Retention.

- (a) The FCP shall give priority consideration to the retention of existing forest cover and individual significant trees and to minimizing the need for reforestation and tree replacement. ~~Except as otherwise provided herein, existing forest cover and individual trees shall be retained to the break-even point. Retention requirements are established as a percentage of a tract's total area in Section 10.5-22(c).~~
- (b) Priority Retention Areas. Except as provided in subsection (c) below, the following trees, shrubs, plants, and specific areas are considered priority for retention and protection and must be retained, protected, and left in an undisturbed condition.
 - (1) Trees, shrubs and plants located in certain sensitive areas, such as the 100 year floodplain, streams and stream buffer areas, steep slopes, nontidal wetlands, and critical habitats;
 - (2) Contiguous forest that connects the largest undeveloped or most vegetated portions of land within and adjacent to the tract;
 - (3) Priority forests as described in the State Forest Conservation Technical Manual;
 - (4) Rare, threatened, or endangered species as referred to in COMAR 08.19.03.01 Article VII 7.2C;
 - (5) Trees associated with a historic site or structure;
 - (6) Trees designated as a champion tree;
 - (7) ~~Certain specimen~~Specimen trees or significant trees that are deemed rare, or of exceptional quality or size within the City;
 - (8) Forested stream buffers;
 - (9) Forested park buffers;
 - (10) Forest suitable for forest interior-dwelling species; and
 - (11) Forest that is most important for providing wildlife habitat or mitigating flooding, high temperatures, or air pollution.
- (c) The ~~Code Administrator~~Forestry Official may approve clearing within priority retention areas if ~~all of the following conditions have been met to the satisfaction of the Code Administrator:~~

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- ~~(1) Priority forest has been retained to the break-even point for forest conservation or~~ it has been demonstrated to the satisfaction of the ~~Code Administrator~~Forestry Official in accordance with subsection (c)(~~41~~) of this section that clearing ~~below the break-even point~~ is warranted. ~~The break-even point shall be calculated using the entire tract area and all existing forest within the tract;~~
- ~~(2) On tracts that do not contain priority forest equal to the break-even point, priority trees, as described in subsection (b)(4), (5), (6) and (7) above, have been retained to the afforestation level;~~
- ~~(3) All afforestation, reforestation and tree replacement requirements are being met onsite; and~~
- ~~(4) Written~~⁽¹⁾ An applicant must provide written justification signed by the applicant ~~has been provided~~ for clearing within priority retention areas ~~or below the break-even point~~. The applicant's justification must contain the following information:
- a. How clearing within priority retention areas ~~or below the break-even point~~ is required to accommodate one or more of the following:
 - i. Right-of-way dedications.
 - ii. Access to the tract.
 - iii. Utility connections.
 - iv. Other City development standards.
 - v. Conditions on the tract and best design practices.
 - b. Why the development activity is consistent with the City of Rockville Comprehensive Plan and cannot be altered to preserve priority retention areas. Cost, alone, or the desire not to alter preferred site design shall not be sufficient justification for not altering the development to preserve priority retention areas.
 - c. How all techniques for retention have been exhausted.
- (d) Non-priority retention areas. On tracts where there is insufficient priority retention area to satisfy the ~~forest~~ retention requirements, of the forest conservation threshold in section 10.5-22(c), these requirements shall be satisfied through the retention of non priority areas provided that:
- (1) Priority areas are protected in retention areas;
 - (2) A minimum 5,000 square foot protection zone is specified;
 - (3) All critical root zone areas are included in the protection area; and
 - (4) The non priority areas provide one or more of the following benefits:
 - a. A vegetative buffer between two different land uses.
 - b. Wildlife habitat.
 - c. Water quality.
 - d. Reduces runoff from erosion.
 - e. Reduces flooding.
 - f. Protects steep slopes.
 - g. Provides areas for recreation and outdoor education activities.
- ~~(5) Clearing below the break-even point must be justified in accordance with the requirements of subsection (c)(4) of this section.~~

~~(e) Priority trees. Written justification signed by the applicant and approved by the Code Administrator must be provided for removal of all trees listed in subsection (b)(4), (5), (6) and (7) above. Said justification must contain the following information:~~

~~(1) How removal of the priority tree(s) is required to accommodate one of the following:~~

- ~~a. Right of way.~~
- ~~b. Access to the tract.~~
- ~~c. Utility connections.~~
- ~~d. Other City developmental standards.~~
- ~~e. Conditions on the tract and best design practices.~~

~~(2) Why the development activity is consistent with the City of Rockville Comprehensive Plan and cannot be altered to preserve priority trees. Cost alone, or the desire not to alter the preferred site design, shall not be sufficient justification for not altering the development to preserve priority trees.~~

~~(3) How all techniques for retention have been exhausted.~~

Sec. 10.5-22. Tree replacement, reforestation, and afforestation.

(a) Tree replacement and reforestation. After all efforts to maximize forest and tree preservation onsite, as required in section 10.5-21, have been exhausted, the FCP shall provide for tree replacement, afforestation, and reforestation onsite as follows:

- (1) *Tree replacement.* Individual significant trees removed, whether within the forest or outside the forest, shall be replaced at the following rates with similar species. In the event that adequate space does not exist for similar species, smaller species may be utilized, subject to the ~~Code Administrator's~~ Forestry Official's approval.

Size of Significant Tree Removed (inches)	Minimum 2½-Inch Caliper Tree Replacement (number of trees)
6—18 DBH	1
19—24 DBH	2
25—29 DBH	3
30 and greater DBH	6

(2) *Reforestation.* For all existing forest cover measured to the nearest 100 square feet cleared on the tract area:

- a. Forest cover outside of priority retention areas shall be reforested at a ratio of 50 square feet planted for every 100 square feet removed above the forest conservation threshold established in subsection (c) of this section for the zone in which the tract is located;
- b. Forest cover within or containing priority retention areas shall be reforested at a ratio of 100 square feet planted for every 100 square feet removed above the forest conservation threshold established in subsection (c) of this section for the zone in which the tract is located; and
- c. All forest cover removed below the forest conservation threshold established in subsection (c) of this section for the zone in which the tract is located shall be reforested at a ratio of 300 square feet planted for every 100 square feet removed.

(3) *Reforestation* ~~Credit-credit~~. The Forest Conservation Manual may provide for a credit against the area required to be reforested for:

- a. Forested areas retained above the forest conservation threshold;
- b. Individual significant trees retained outside of the forest retention areas, where 75 percent of the critical root zone is preserved; and
- c. Street trees planted, not to exceed 25 percent of the total reforestation requirement.

(b) Afforestation.

(1) Afforestation is not required for a solar photovoltaic facility or activities conducted:

~~a. On~~ on a tract with an area of less than forty thousand (40,000) sq. ft.;

(2) Where forest cover on a tract prior to development activity is less than the percentage of coverage established in subsection (c) of this section as the afforestation level for the zone in which the tract is located, the ~~FCP~~ shall provide for the afforestation of the tract to the applicable afforestation level.

(3) Forest cut or cleared below the required afforestation level, in accordance with section 10.5-21, shall be replaced at a rate of three (3) times the area removed 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.

(4) The Forest Conservation Manual may provide for:

- a. A credit against the area required to be afforested for:
 - (i) Individual significant trees retained outside of the forest retention areas, where 75 percent of the critical root zone is preserved; and
 - (ii) Street trees planted, not to exceed 25 percent of the total afforestation requirement.
- b. Calculation of afforestation requirements based on less than the tract area where 75 percent of a tract area has previously been developed and no more than 25 percent of the tract area will be disturbed.
- c. Calculation of afforestation requirements based on less than the tract area;
 - (i) Where 75 percent of a tract area has been previously developed; and
 - (ii) The tract consists of one or more lots or parcels of land under common ownership aggregating at least 80 acres in size; and
 - (iii) No more than 50 percent of the tract area will be disturbed.

(c) Forest conservation thresholds and afforestation levels.

Applicable Zones	Forest Conservation Threshold (percent)	Afforestation Level (percent)
R-400, R-200	30	20
R-90, R-75, R-60, R-150	25	15
R-40, RMD-INFILL, RMD-10, RMD-15, RMD-25 <u>RMD10, RMD15, RMD25</u>	15	15
I-L, I-H, MXT, MXC, MXCT , MXNC, MXB, MXE, MXCD, MXTD	15	15

For planned developments the thresholds and levels are those applicable to the designated equivalent zone, as set forth in ~~Chapter~~ 25.

(d) Minimum tree cover.

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- (1) Except as otherwise provided in this section, the minimum tree cover to be provided onsite is the same percentage of the tract area as the afforestation level.
 - (2) In the MXCD, MXTD and MXNC zones, the minimum tree cover to be provided onsite is 10 percent of the tract area.
 - (3) In the MXE zone, if at least five percent of the tract area is dedicated in fee simple to the City as useable public parkland, the minimum tree cover to be provided onsite is 10 percent of the tract area. Any parcel of land dedicated to the City pursuant to this subsection must be a minimum of 20,000 square feet. It is the Director of Recreation and Park's sole discretion to determine whether to accept the dedication of land and whether land is usable public parkland. Trees planted on the land to be dedicated to the City may count towards the minimum tree cover requirement, but the ~~Code Administrator~~Forestry Official must approve any such planting.
 - (4) For a champion project, as defined ~~in the~~ Chapter 25, the Mayor and Council, at the time a project plan resolution is approved, may establish the minimum tree cover to be provided onsite. The minimum tree cover for a champion project can be established at no less than five percent of the tract area.
 - (5) Replacement trees, reforestation, afforestation and existing trees can be used to satisfy tree cover requirements. Tree cover requirements shall be calculated and shown on the FCP.
- (e) The Forest Conservation Manual may provide for implementation of tree replacement, reforestation, and afforestation requirements in stages tied to phased development activity. Tree replacement, reforestation, and afforestation shall be accomplished within one (1) year or two (2) growing seasons after completion of the development project, as specified on the approved ~~FCP~~.
- (f) Upon meeting the reforestation and afforestation requirements in this section, all unforested riparian buffers onsite must be afforested and reforested, unless the ~~Code Administrator~~Forestry Official finds, based on information provided by the applicant, that afforestation or reforestation in the riparian buffer:
- (1) Would be in conflict with allowable uses as established for the riparian buffer;
 - (2) Is located on City park property and conflicts with the mission and established stewardship practices of the Department of Recreation and Parks; or
 - (3) Is not suitable for the establishment and retention of the required planting materials, in which case the applicant must implement substitute environmental protection measures approved by the ~~Code Administrator~~Forestry Official.
- (g) A minimum of 80% of all trees planted by or on behalf of an applicant to satisfy the requirements of this section must be native trees. To the extent possible, forest conservation requirements should be met using a diversity of tree species.

Sec. 10.5-23. Preferred sequence and priorities for tree replacement, reforestation, and afforestation.

- (a) Tree replacement, reforestation and afforestation, where possible, shall be provided for in the following preferred sequence:
- (1) Selective clearing and supplemental planting onsite;
 - (2) Onsite planting using transplanted or nursery stock that is equal to or greater than one inch caliper;
 - (3) Landscaping of areas onsite under an approved landscaping plan ~~and~~
 - (4) Offsite planting using transplanted or nursery stock that is equal to or greater than one inch caliper.
- (b) The following are considered a priority for reforestation and afforestation, and are to be employed in the following preferred sequence:
- (1) Establish or enhance stream buffer areas;

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- (2) Establish or enhance forested areas on 100-year floodplains;
 - (3) Establish or increase connections between forested areas;
 - (4) Establish or enhance forest buffers adjacent to critical habitats;
 - (5) Stabilize steep slopes;
 - (6) Increase the overall area of contiguous forest cover;
 - (7) Enhance nontidal wetlands;
 - (8) Use native plant materials;
 - (9) Establish or enhance buffers between differing land uses or adjacent to highways or utility rights-of-way;
 - (10) Establish or enhance forested buffers adjacent to parkland.

Sec. 10.5-24. Payment in lieu of tree replacement, reforestation, and afforestation.

- (a) If an applicant provides written justification demonstrating that tree replacement, reforestation or afforestation cannot be reasonably accomplished onsite or offsite, the applicant may, with the approval of the ~~Code Administrator~~Forestry Official, contribute to the City's Forest Conservation Fund and Park Maintenance Fund an amount in lieu of tree replacement, reforestation or afforestation as set forth in the Forest Conservation Manual. The applicant's justification must contain the following information:
 - (1) How planting space is limited to accommodate one or more of the following:
 - ~~i~~a. Right-of-way dedications;
 - ~~ii~~b. Access to the tract;
 - ~~iii~~c. Utility connections; or
 - ~~iv~~d. Other City development standards.
 - (2) Why the development cannot be altered to provide adequate planting space. Cost, alone, or the desire not to alter preferred site design shall not be sufficient justification for not altering the development to preserve priority retention areas.
 - (3) How the minimum tree cover requirement, as determined by the afforestation threshold, is being met onsite.
 - (4) How the applicant has been unable to reasonably secure offsite area within the municipal boundaries of the City to accommodate afforestation or reforestation.
- (b) The City may use funds from the City Forest Conservation Fund for those purposes authorized by COMAR 08.19.02.02(I). Funds shall not be used to plant or maintain trees on single dwelling unit residential lots.
- (c) The City may use the funds from the Park Maintenance Fund for the purposes of installing, maintaining, and replacing trees, shrubbery, and other landscaping on City parkland, right-of-way, and other City-owned property. Maintenance may include control and eradication of invasive/exotic plants. Funds shall not be used for the installation, maintenance, or replacement of any hardscape, except to the extent that such hardscape is deemed by the ~~Code Administrator~~Forestry Official to be necessary to protect and preserve plant material.

ARTICLE IV. AGREEMENTS

Sec. 10.5-25. Maintenance agreements.

- (a) Where significant tree replacement, reforestation, or afforestation is required, the final ~~-FCP~~ must include a ~~minimum-of-binding~~ five-year maintenance agreement.
- (b) The maintenance agreement shall provide for the maintenance of all trees planted in accordance with an approved final ~~-FCP~~ to ensure their protection and the satisfactory ~~establishment~~establishments of ~~forest~~forests. The maintenance agreement shall require replacement plantings if survival rates fall below required standards as provided in the State Forest Conservation Technical Manual and shall provide for access by representatives of the City to the afforested and reforested areas and other areas covered by the maintenance agreement. The maintenance agreement shall require eradication and control of non-native and invasive plants as identified on the City's Non-Native and Invasive Plant List for the duration of the maintenance period.
- (c) The applicant shall submit documentary evidence of the applicant's legal right to implement the proposed maintenance agreement.
- (d) Upon a biennial inspection during the ~~Spring~~spring and ~~the Fall~~fall planting seasons, ~~the~~the maintenance period may be extended for additional growing seasons to ensure that:
 - (1) Supplemental planting needed to meet forest conservation requirement becomes established;
 - (2) Effective ~~exotic~~ and non-native invasive control is completed; and
 - (3) All aspects of the approved forest conservation plan have been satisfactorily met.
- (e) Except where the City is the applicant, the maintenance agreement shall be accompanied by a bond issued by a surety company authorized to do business in Maryland, or an irrevocable letter of credit issued by a financial institution authorized to do business in Maryland, or such other security satisfactory to ~~Code Administrator~~the Forestry Official and the City Attorney, in an amount equal to the estimated cost of significant tree replacement, afforestation, and reforestation or the amount of the contribution due the City Forest Conservation Fund, plus the estimated cost of forest and significant tree protection measures.
 - (1) The bond or other security shall run to the Mayor and Council and shall secure that the retention, tree replacement afforestation, reforestation and maintenance agreement are conducted and maintained in accordance with the approved FCP or that the required contributions have been made to the City Forest Conservation Fund.
 - (2) The security shall be released upon the determination of the ~~Code Administrator~~Forestry Official that all requirements of the FCP and the maintenance agreement have been fulfilled. The security may be partially released based on the successful implementation of phases of the FCP, if the maintenance agreement provides for partial release.
 - (3) The security may be subject to forfeiture upon the failure of the applicant to comply with:
 - a. An administrative order pertaining to the approved ~~F~~FCP; or
 - b. Any element of the approved ~~-FCP~~;
 - (4) The ~~Code Administrator~~Forestry Official shall notify the obligee by certified mail, of the intention of the City to seek forfeiture of the security.

Sec. 10.5-26. Long-term ~~protective~~ agreement.

- (a) The final FCP must include a long-term protective agreement consistent with an approved final FCP in a form approved by the Office of the City Attorney.

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- (b) A long-term protective agreement shall contain enforcement provisions, including provisions for the collection of attorney's fees incurred in such enforcement action, except where the City is the applicant.
 - (c) Any final subdivision plat or detailed development plan for the subject tract approved on or after January 1, 1993 shall show the areas subject to a long-term protective agreements.

Secs. 10.5-27—10.5-30. Reserved.

ARTICLE V. INDIVIDUAL TREE REMOVAL

Sec. 10.5-31. Trees in public right-of-way.

Trees within the public right-of-way are subject to the State's Roadside Tree Law, as set forth in the Natural Resources Article.

Sec. 10.5-32. Trees on private property.

- ~~(a) This section does not apply to the removal of any significant tree located on a lot improved with an existing single dwelling unit that is not otherwise subject to the provisions of this Chapter, except that the portion of a public right-of-way abutting or adjacent to a lot with a single dwelling unit is subject to section 10.5-31.~~
- ~~(b) It(a)~~ Except as provided in subsection (b), below, it is unlawful for any person to remove any significant tree on private property, including trees located within utility easements, not otherwise covered by ~~a-an~~ FCP, without first receiving a permit from the ~~Code Administrator-Forestry Official~~.
- ~~(b) This section does not apply to the removal of any significant tree located on a lot improved with an existing single dwelling unit, unless such tree is subject to an existing FCP or if such tree is within a public right-of-way and subject to section 10.5-31.~~
- (c) The ~~Code Administrator-Forestry Official~~ shall issue a permit if one of the following conditions exist:
 - (1) The tree is dead or dying, or in danger of falling;
 - (2) The tree is diseased, insect infested, or injured and cannot reasonably be restored;
 - (3) The tree constitutes a hazard to the safety of persons or threatens injury to property, including other trees.
 - (4) Removal of a tree is required for the maintenance of a utility. Unless otherwise prohibited by law, the ~~Code Administrator-Forestry Official~~ may require that significant trees removed be replaced in accordance with the tree replacement rates set forth in subsection 10.5-23(a)(1), or that payment be made to the City's Forest Conservation Fund in lieu of significant tree replacement.
- (d) If none of the conditions contained in subsection (c) exist, a permit may be issued ~~pursuant to guidelines in the Forest Conservation Manual~~ only upon the condition that the tree removed be replaced in accordance with the tree replacement rates set forth in subsection 10.5-22(a)(1), or that payment be made to the City's Forest Conservation fund in lieu of significant tree replacement, or a combination of tree replacement and fee in lieu payment occurs, pursuant to the Forest Conservation Manual.

ARTICLE VI. ENFORCEMENT

Sec. 10.5-33. Inspections.

- (a) The ~~Code Administrator~~Forestry Official may enter property subject to this Chapter for the purpose of inspection and enforcement. The timing and frequency of the inspections shall be at the discretion of the ~~inspector~~Forestry Official, except that the following inspections must take place:
 - (1) Before any land disturbing activities occur on the tract;
 - (2) Following completion of all land disturbing activities and tree replacement, afforestation or reforestation covered by the ~~-FCP~~; and
 - (3) At the end of the time period covered by the maintenance agreement.
- (b) No land disturbing activity shall commence and no bond or security shall be released until the ~~Code Administrator~~Forestry Official has conducted an inspection.

Sec. 10.5-34. Penalties and other remedies.

- (a) Pursuant to Section 6-1612 of the Natural Resources Article, a fine in the amount of \$1,000.00 may be imposed for each violation of this Chapter, including any violation of an approved ~~-FCP~~, which fine may be recovered in a civil action brought by the City. Each day a violation continues is a separate violation.
- (b) In addition, the City shall have available to it all those remedies set forth in sections 1-9 and 1-11 of this Code.
- (c) In addition to any of the foregoing remedies, the ~~Code Administrator~~Forestry Official may, in response to any violation:
 - (1) Issue a stop-work order until the violation has been abated, and/or any fine or penalty imposed has been paid, except that a stop work order shall be lifted with respect to any fine or penalty from which an appeal has been filed pursuant to section 10.5-35 of this Chapter;
 - (2) Initiate forfeiture proceedings of security posted;
 - (3) Order corrective action to restore or reforest an area;
 - (4) Revoke a covered approval issued conditioned on compliance with this Chapter. Revocation of any covered approval due to non-compliance with an approved ~~-FCP~~ or any other violation of this Chapter shall be conducted in the same manner as a revocation proceedings for other reasons;
 - (5) Assess an administrative penalty in the amount of \$0.30 per square foot of the area found to be in non-compliance with required forest conservation. Payment of such an administrative penalty shall become a condition of the covered approval.
- (d) When practical under the circumstances, the ~~Code Administrator~~Forestry Official shall issue an administrative notice of violation requiring the violator to take corrective action and/or pay a fine and/or penalty within a certain period of time. The violator shall thereafter be given an opportunity to consult with the ~~Code Administrator~~Forestry Official prior to any further enforcement action being taken. Service of the administrative notice shall be made on the alleged violator personally, on the violator's agent at the activity site, or by certified mail to the violator's last known address. If, after reasonable efforts, service cannot be made in the foregoing manner, it shall be made by posting the administrative notice at the tract which is the subject of the covered approval and by regular mail to the violator's last known address. If the violator is different from the applicant for the covered approval, the copy of the administrative notice of violation shall also be served upon said applicant.

Sec. 10.5-35. Appeals.

Any person aggrieved by a final decision of ~~the Code Administrator~~Forestry Official pursuant to this Chapter may file a petition for judicial review in accordance with the Maryland Rules not later than 30 days after the decision is issued.



Reforest Rockville

www.ReforestRockville.org

May 3, 2024

Dear Mayor and Council,

As discussion begins about changes to the tree code in Rockville, we commend the Mayor & Council for their strong support for trees and green spaces during the recent campaign. Building on this momentum, we ask for your support in the following areas:

- **Update the city tree master plan** to prioritize native and near-native trees that will thrive as street trees in our shifting weather patterns.
- Continue to **support homeowners to plant trees** (financially, native tree giveaways, outreach).
- **Protect existing trees**, especially mature native trees.
- Develop a comprehensive plan to **address invasive plants** in Rockville, especially **vines** which kill trees.
- **Trees before sidewalks!** Each square of sidewalk concrete produces 10 gallons of runoff per one inch of rain. With increasingly heavy, punctuated downpours, this is a safety issue as we have seen with flooding in Twinbrook.
- For developers, require replanting and extended care for trees at the **highest level possible**.

The above recommendations require little in budget resources and will have a tremendous impact on the quality of life in Rockville.

Thank you,

The Reforest Rockville Team
trees@ReforestRockville.org
www.ReforestRockville.org

From: Wayne Breslyn <waynebreslyn@gmail.com>
Sent: Monday, August 5, 2024 8:07 AM
To: mayorcouncil <mayorcouncil@rockvillemd.gov>
Subject: Public Hearing: Tree Ordinance Revisions

WARNING - External email. Exercise caution.

Dear Mayor and Council Members,

I'd like to express gratitude to City Staff as well as the Mayor & Council for their diligent and thorough approach in revising the tree ordinance. I do appreciate the commitment to enhancing our city's tree canopy, parks, and green spaces.

Based on the information in the agenda packet there are two areas I would like to address.

Clarifying what types of trees will be required as replacements.

I ask that two out of three trees be native to our area and one of the trees be a canopy/shade tree (e.g. white oak, red maple). This approach would bring significant environmental benefits, including mitigating flooding and the heat island effect, while also supporting our local ecosystems. **Space, location, site distance and etc should be the first guiding principal for tree selection.**

Extending range values across all categories.

Lowering the threshold for replacement to six inches is a welcome addition. To be consistent, the change should be applied across all ranges (p281). For example:

Size of Significant Tree Removed (inches)	Minimum 2½-Inch Caliper Tree Replacement (number of trees)
6-12 DBH	1
13-18 DBH	2
19-24 DBH	3
25 and greater DBH	6

Note that the difference in cross-sectional area for a 18 inch DBH tree is 255 sq in. A 2.5 in caliper tree is 4.91 sq in. This is over 50 times bigger. Modifying the table better reflects this loss.

Thank you once again for this important update to our tree ordinance and for all the hard work from the City of Rockville to make this happen.

Sincerely,

Wayne Breslyn
Stanley Avenue, Twinbrook

Public Hearing Written Comments

Monday, August 5, 2024

Amendments to Chapter 10.5 of the City Code, the Forest and Tree Preservation Ordinance

	Name	Address Phone Number Email
1.	Caryl McNeilly Twinbrook	carylmcneilly@gmail.com
2.	Sarah Salazar Twinbrook	mariposarah@gmail.com
3.	Lei Liu Tilden Woods	lydia_liu10@yahoo.com
4.	Sandra Robinson Bethesda	granitesong@aol.com
5.	Maya Chauls 14101 Manorvale Rd	jonandmaya@yahoo.com
6.	Anne Goodman, PhD 9807 Veirs Dr., Apt 120	communitywildlifehabitat@gmail.com
7.	Carol Hannaford Twinbrook	carol.hannaford@gmail.com
8.	Jeff Schloss Rockshire	scalja1@gmail.com
9.	Dr. Robert E. Williamson Twinbrook	skipcaryl2@aol.com

Judy Penny

From: Caryl McNeilly <carylmcneilly@gmail.com>
Sent: Monday, August 5, 2024 9:46 AM
To: mayorcouncil
Subject: M&C Tree Discussion Monday: Please strengthen FTPO further

Importance: High

WARNING - External email. Exercise caution.

To the Honorable Mayor Ashton and Council Members: **I appreciate Rockville’s commitment to increasing forest canopy** to achieve the city’s climate change and flood mitigation goals. And I welcome any strengthening of city code to reflect the goals of SB256 to protect more forested land in Maryland, within Rockville’s flexibility as a priority funding area under the law. **I have concerns and questions about some of the proposed amendments to Chapter 10.5 of the City Code, the Forest and Tree Preservation Ordinance (FTPO).**

Bravo for the proposed requirement to replace trees 6” in diameter at breast height (DBH) [pg 248: “The current replacement requirements allow trees below 12” in diameter at breast height (DBH) to be removed without replacement requirements. The staff has found this results in the removal of valuable trees that provide significant canopy within the City.”] **And I urge you to strengthen the replacement requirements for trees 19” - 29” in diameter, including larger diameter replacements** for larger diameter trees (they provide disproportionately more environmental benefits) [pg 281]:

<u>Size of Significant Tree Removed (inches (number of trees)</u>	<u>Minimum 2½-Inch Caliper Tree Replacement</u>
12 6 – 18 d.b.h. DBH	1
greater than 18 19 – 24 d.b.h. DBH	2
Greater than 24 25-29 d.b.h. DBH	3
Replacement of a specimen or champion tree	
shall be at twice the above rate. 30 and greater DBH	6

Please codify the City Forester as responsible for the FTPO, in line with previous practice, rather than designating a “Code Administrator” [pg. 247]. This would better reflect the intent of SB 256, in contrast to the recent change to administering the FTPO through the Community Planning and Development Services Department. I welcome the code change “The definition of “street tree” will be expanded to include trees planted within private roads.” [pg 247]

I urge you to require more than three trees per lot for single family homes, and increase the required number with lot size. [pg 249: • While encouraging the retention of existing trees, require a minimum of three trees per lot for all new detached single-family homes, both on vacant lots and teardown/rebuilds – FASTER & SMARTER. The discussion on pg 253 implies fewer could be considered on smaller lots; I urge you to expand the provisions to require more trees on larger lots.

The proposed code revisions lack a complete discussion of “replacement with what”. I welcome the statement that “staff support the prioritization of native and “near-native trees”, while recognizing the various factors involved in species selection in an urban environment.” [pg 250] But that appears to apply only to the separate Master Street Tree Plan. I also applaud the statement that “... applicable sites are subject to nonnative invasive management plans. Such plans span the duration of the associated warranty and maintenance period (5 years).” [pg 250] But **revision of the FTPO in regard to tree replacement would benefit from prohibiting replacement with invasive non-native trees and requiring (or at least incentivizing) developers and homeowners to plant native and near-native trees**, emphasizing “keystone” species, which create the most productive and sustainable habitat for pollinators, butterflies, birds and other wildlife <https://www.nwf.org/Garden-for-Wildlife/About/Native-Plants/keystone-plants-by-ecoregion>.

In sum, I applaud your commitment to expanding tree canopy and urge you to refine the amendments to Chapter 10.5 of the City Code to better achieve that goal.

Thank you for your attention and your service to Rockville.

Sincerely,

Caryl McNeilly
Twinbrook neighborhood

Judy Penny

From: skipcaryl2@aol.com
Sent: Monday, August 5, 2024 10:04 AM
To: mayorcouncil
Subject: Trees tonight: Please strengthen FTPO Provisions

WARNING - External email. Exercise caution.

Dear Mayor Ashton and Council Members,

Thank you for your commitment to increasing forest canopy. I appreciate all measures to strengthen the FTPO to achieve to achieve it.

I welcome the proposed requirement to replace trees 6" in diameter at breast height (DBH), and **expanding the definition of "street tree"** to include trees planted within private roads.

I urge you to strengthen the replacement requirements for trees 19" and larger in diameter, including larger diameter replacements for larger diameter trees (they provide disproportionately more environmental benefits). The code should **require a minimum share of "keystone" species**--a small number of large native species (e.g. oaks) are key to support the entire ecosystem.

In sum, I applaud your commitment to expanding tree canopy and urge you to refine the amendments to Chapter 10.5 of the City Code to better achieve that goal.

Thank you for your attention and your hard work on our behalf.

Sincerely yours,
Dr. Robert E. Williamson
Twinbrook, Stillwell Road

Re: Suggestions for Tree Ordinance Changes

Shaun Ryan <sryan@rockvillemd.gov>

Fri 8/30/2024 9:46 AM

To: dbreslyn@yahoo.com <dbreslyn@yahoo.com>

Cc: ElectedAppointed <ElectedAppointed@rockvillemd.gov>; Barack Matite <bmatite@rockvillemd.gov>; Linda Moran <lmoran@rockvillemd.gov>; Ricky Barker <rbarker@rockvillemd.gov>; John Foreman <jforeman@rockvillemd.gov>; Mary Grace Sabol <msabol@rockvillemd.gov>; Shayda Musavi <smusavi@rockvillemd.gov>

Hello Donna,

Thank you for providing feedback on the amendments to the Forest and Tree Preservation Ordinance. Public feedback strengthens our processes and decision making and is greatly appreciated. Your input will be included in the public record.

V/R,



www.rockvillemd.gov

Shaun Ryan M.A.

DEVELOPMENT REVIEW SUPERVISOR

ISA Certified Arborist FL-9504A & Qualified Tree Risk Assessor

MD DNR Qualified Preparer

Community Planning and Development Services

111 Maryland Avenue

Rockville, MD 20850

DIRECT EXTENSION: 240.314.8233

OFFICE MAIN LINE: 240.314.8200

How was your experience with us? Take a quick survey and let us know

<https://www.surveymonkey.com/r/JD9CWXC>

I sometimes send emails out of hours; I do not expect others to do so.

From: Donna Breslyn <dbreslyn@yahoo.com>

Sent: Thursday, August 29, 2024 9:19 AM

To: mayorcouncil <mayorcouncil@rockvillemd.gov>

Subject: Suggestions for Tree Ordinance Changes

WARNING - External email. Exercise caution.

Dear Mayor and Council,

Thank you for your commitment to protecting and increasing the number trees in Rockville.

Recently I learned about changes to the city's tree ordinance. Please be sure to be very clear that developers replace any trees removed with native trees. And the replacements should include large trees, like oaks, that improve the tree canopy in our the city, keep our streets and sidewalks cool, and support our environment.

Please also require that the expansion of the tree size replacement chart is applies to all categories, not just the first category in the table.

Thank you,

Donna Neiderheiser

The Village at Rockville

Rockville Mayor and Council Meeting
September 9, 2024
Sam Freedenberg – Testimony on Behalf of Rockville Cemetery

Honorable Mayor and Council Members:

My name is Sam Freedenberg, and I am Community Director for Rockville Cemetery. I would like to append my remarks to those given by Hannelore Quigley and Will Pozzi.

The one thing that strikes anyone entering Section 1 of Rockville Cemetery is the incredible cultural, religious, and ethnic diversity of those for whom the cemetery is their final resting place.

There may be no other place in this city where one can see that diversity more clearly – burial site markers engraved in a multitude of languages – Spanish, Farsi, Russian, French, Chinese, Japanese, Korean, Arabic, Hebrew, Tagalog – from countries of origin spanning every continent on the globe.

Sadly, this being not only an historic cemetery but an active one, in a short period of time we see the funerals of:

- a physician’s assistant, born in Sri Lanka,
- the young child of a family of the Bahá’í faith,
- a doctor and his wife who emigrated from Indonesia,
- two centenarians, one born in Russia, the other the widow of a man who served in the White House during the Cuban Missile crisis,
- and a Vietnam War veteran – one of more than 400 from every war this country has fought buried in the cemetery – who was born and raised in Rockville in the first electrified house on Baltimore Road.

We have promised the families of these people, and everyone from 1742 until today, that Rockville Cemetery will be here *in perpetuity*. I can’t imagine a Rockville without this wonderful resource, this tranquil place of historical inspiration, pastoral beauty, and calm reflection. Can you or anyone else?

I urge you to grant Rockville Cemetery an exemption for the tree ordinance.

Thank you.

David Hill Testimony re: Tree Ordinance Impact on Rockville Cemetery, Sept. 9. 2024

I'm a friend of Rockville Cemetery and have been following there, and I also speak to you as a long-term land use commissioner in both the city and the county.

This is a state law that is pushing the FTPO to change, and the State, since Rockville is in a priority funding area, provided the option for local jurisdictions exercising their discretion towards exemptions for purposeful land uses. I suggest to you the Cemetery is one.

I also served as a RORZOR commissioner in the naught years, which was the major rewrite to the city ordinance, that maybe getting updated this fall, but is still in operation. I think we committed an inadvertency in that process for the Cemetery. I don't have enough time to explain that further. We can work with staff about this.

I encourage you: You've heard about the cemetery operations and history, I speak to the land use. Cemeteries are necessary. Where do we put people when they die? It's a fundamental need of a community and Rockville Cemetery is probably the leading cemetery in the town. It's an ecumenical cemetery; anyone can be buried there and that's important.

The cemetery only uses about 40% of its land now and needs to use more in the future. It's uncertain when that timeframe happens, but certain. The forestry ordinance mentioned was really written towards the idea of accommodating buildings, not accommodating gravesites. And we know there's a problem with it that we have been waiting until the time for sectional enlargement within the cemetery land, to come forward with.

The State is pushing that right now because they're making the forestry requirement more strenuous, and the cemetery, I do not think, can absorb that strenuousness. The cemetery can make a beautifully forested area eventually, but that takes 20 or 30 years between the time where someone buys a plot to someone gets buried in it, and the trees grow back in. That's the problem that the forestry ordinance does not address and I think it's worthwhile for the City to think about addressing it. Or at least in this situation, not make the hole deeper that the cemetery must have already for near-term tree replacement. That's the purpose an exemption would serve.

So the Cemetery Association and its friends can work with staff on doing this. They came a bit late to the table in this process because they didn't hear about it to know. We've already met with staff once and I think we can meet further. Thank you.

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SENATE BILL 526

M1

3lr1713
CF HB 723

By: **Senators Elfreth, Guzzone, Gile, Hester, Kramer, Lam, Hettleman, M. Washington, West, and Zucker**

Introduced and read first time: February 3, 2023

Assigned to: Education, Energy, and the Environment

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 19, 2023

CHAPTER _____

1 AN ACT concerning

2 **Natural Resources – Forest Preservation and Retention**

3 FOR the purpose of altering the definition of “qualified conservation” for purposes of
4 provisions of law related to forest mitigation banks; ~~establishing and authorizing~~
5 altering exemptions from certain afforestation, reforestation, and preservation
6 requirements; altering certain ~~alternative~~ methods of calculating forest
7 afforestation, reforestation, and preservation requirements; ~~altering the~~
8 ~~development projects for which afforestation or reforestation credits granted may not~~
9 ~~exceed a certain percentage of forest conserved; authorizing local jurisdictions to~~
10 adopt certain alternative afforestation, reforestation, and preservation
11 requirements; altering rules for the use of qualified conservation to meet
12 afforestation or reforestation requirements; adding certain tree plantings and
13 practices as methods that certain municipal corporations may use to meet
14 afforestation or reforestation requirements; adding certain areas and vegetation
15 considered to be a priority for forest retention and protection under certain
16 circumstances; ~~lowering the acreage threshold in certain counties for participation~~
17 ~~in the forest conservation and management program; providing for judicial review of~~
18 certain plans and determinations; extending the time period for the Department of
19 Natural Resources to spend certain money deposited in the Forest Conservation
20 Fund; requiring the Department to update the State Forest Conservation Technical
21 Manual; requiring the Department to establish a workgroup to evaluate and
22 recommend incentives for private landowners to conserve forests; and generally
23 relating to forest preservation and retention.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



BY repealing

Article – Natural Resources
Section 5–101(i) and 5–102(b)(1)
Annotated Code of Maryland
(2018 Replacement Volume and 2022 Supplement)

BY renumbering

Article – Natural Resources
Section 5–101(j) through (m) and ~~5–1601(hh) through (qq)~~ 5–102(b)(2) through (8)
to be Section 5–101(i) through (l) and ~~5–1601(ii) through (rr)~~ 5–102(b)(3) through (9),
respectively
Annotated Code of Maryland
(2018 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, without amendments,

Article – Natural Resources
Section 5–101(a), 5–1601(a), ~~and 5–1602(a)~~, and 5–1610(b)
Annotated Code of Maryland
(2018 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, with amendments,

Article – Natural Resources
Section 5–101(e), 5–1601(gg), ~~5–1602(b)(5)~~, 5–1602(b)(4), (5), (12), and (13),
5–1603(a)(1) and (c)(3)(ii), 5–1605(d), 5–1606, and 5–1607, 5–1610(e), and
5–1610.1(c)
Annotated Code of Maryland
(2018 Replacement Volume and 2022 Supplement)

BY adding to

Article – Natural Resources
Section 5–101(m), 5–102(b)(1) and (2), 5–1601(hh), 5–1602(b)(14) through (17), and
5–1606.1
Annotated Code of Maryland
(2018 Replacement Volume and 2022 Supplement)

~~BY repealing and reenacting, without amendments,~~

~~Article – Tax – Property
Section 8–211(a) and (b)
Annotated Code of Maryland
(2019 Replacement Volume and 2022 Supplement)~~

~~BY repealing and reenacting, with amendments,~~

~~Article – Tax – Property
Section 8–211(e)
Annotated Code of Maryland
(2019 Replacement Volume and 2022 Supplement)~~

BY repealing and reenacting, with amendments,
Chapter 645 of the Acts of the General Assembly of 2021
Section 11

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That Section(s) 5–101(i) of Article – Natural Resources of the Annotated Code of Maryland
be repealed.

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 5–101(j) through
(m) and ~~5–1601(hh) through (qq)~~ 5–102(b)(2) through (8) of Article – Natural Resources of
the Annotated Code of Maryland be renumbered to be Section(s) 5–101(i) through (l) and
~~5–1601(ii) through (nn)~~ 5–102(b)(3) through (9), respectively.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
as follows:

Article – Natural Resources

5–101.

(a) In this title the following words have the meanings indicated.

(e) (1) “Forest land” means [a biological community dominated by trees and
other woody plants that are capable of producing timber or other wood products with a
stocking of at least 100 trees per acre with at least 50% of those trees having a 2–inch or
greater diameter at 4.5 feet above the ground] **A CONTIGUOUS PATCH OF TREES THAT
IS AT LEAST 1 ACRE IN SIZE EXHIBITING AT LEAST ONE TRANSECT OF AT LEAST ~~240~~
120 FEET IN WIDTH.**

(2) “Forest land” includes forested areas that have been cut but not
converted to other land uses.

**(M) “TREE CANOPY” MEANS THE CROWNS OF DECIDUOUS AND EVERGREEN
WOODY VEGETATION THAT IS:**

(1) THE PRODUCT OF NATURAL GROWTH OR HUMAN PLANTING; AND

(2) GREATER THAN 3 METERS IN HEIGHT.

5–102.

(b) It is the policy of the State to encourage the retention and sustainable
management of forest lands by:

[(1) Achieving no net loss of forest;]

(1) ~~INCREASING THE ACREAGE OF~~ INCREASING, AS MEASURED EVERY 4 YEARS, THE ACREAGE OF FOREST LAND IN THE STATE AS MEASURED EVERY 4 YEARS THAT IS:

~~(I) FOREST LAND; OR~~

~~(II) COVERED;~~

(2) INCREASING, AS MEASURED EVERY 4 YEARS, THE ACREAGE OF LAND IN THE STATE COVERED BY TREE CANOPY, FOR LAND LOCATED INSIDE AN URBAN AREA ~~OR~~ AND OUTSIDE AN URBAN AREA;

5-1601.

(a) In this subtitle the following words have the meanings indicated.

(gg) "Qualified conservation" means the conservation of all or a part of an existing forest that:

(1) [Was] **HAS BEEN** approved [on or before December 31, 2020,] by the appropriate State or local forest conservation program for the purpose of establishing a forest mitigation bank; ~~and~~

(2) ~~IS NOT LOCATED ON LAND FOR WHICH:~~

~~(I) DEVELOPMENT OR SUBDIVISION RIGHTS HAVE BEEN MATERIALLY EXTINGUISHED;~~

~~(II) STATE OR LOCAL LAW PROHIBITS SUBDIVISION OF THE LAND WITHOUT THE APPROVAL OF A WAIVER, MODIFICATION, OR VARIANCE, NOT INCLUDING A VARIANCE ISSUED UNDER THIS SUBTITLE;~~

~~(III) THE SOIL IS REASONABLY EXPECTED TO BE UNSUITABLE FOR SUPPORTING A CONVENTIONAL SEPTIC SYSTEM AND PUBLIC SEWER SERVICE IS NOT PLANNED; OR~~

~~(IV) MAJOR SUBDIVISIONS ARE PROHIBITED BY LOCAL ZONING OR § 9-206 OF THE ENVIRONMENT ARTICLE; AND~~

~~(3)~~ Is encumbered in perpetuity by a restrictive easement, covenant, or another similar mechanism recorded in the county land records to conserve its character as a forest.

~~(HH) "QUALIFIED PROJECT" MEANS A PROJECT;~~

~~(1) THAT USES QUALIFIED CONSERVATION FOR WHICH AN APPLICATION WAS SUBMITTED OR APPROVED ON OR BEFORE DECEMBER 31, 2020; OR~~

~~(2) THAT IS GOVERNED BY A LOCAL PROGRAM THAT HAS ALTERNATIVE AFFORESTATION, REFORESTATION, AND PRESERVATION REQUIREMENTS ADOPTED UNDER § 5-1606.1 OF THIS SUBTITLE.~~

5-1602.

(a) Except as provided in subsection (b) of this section, this subtitle shall apply to any public or private subdivision plan or application for a grading or sediment control permit by any person, including a unit of State or local government on areas 40,000 square feet or greater.

(b) The provisions of this subtitle do not apply to:

(4) Any agricultural activity that does not result in a change in land use category, including THE OPERATION OF ORCHARDS AND TREE FARMS AND THE CONSTRUCTION AND USE OF agricultural support buildings and other related structures built using accepted best management practices;

(5) The cutting or clearing of public utility rights-of-way [or land] for electric generating stations licensed pursuant to § 7-204, § 7-205, § 7-207, or § 7-208 of the Public Utilities Article, provided that:

(i) Any required certificates of public convenience and necessity have been issued in accordance with § 5-1603(f) of this subtitle; and

(ii) The cutting or clearing of the forest is conducted so as to minimize the loss of forest;

(12) Any stream restoration project for which the applicant for a grading or sediment control permit has executed a binding maintenance agreement of at least 5 years with the affected property owner; [and]

(13) Maintenance or retrofitting of a stormwater management structure that may include clearing of vegetation or removal and trimming of trees, so long as the maintenance or retrofitting is within the original limits of disturbance for construction of the existing structure, or within any maintenance easement for access to the structure;

(14) FOREST MANAGEMENT;

(15) TRANSIT-ORIENTED DEVELOPMENT, AS DEFINED UNDER § 7-101 OF THE TRANSPORTATION ARTICLE, PROVIDED THAT THE AREA OF FOREST REMOVED SHALL BE:

(I) REFORESTED AT A RATIO OF AT LEAST 1/4 ACRE
REPLANTED FOR EACH ACRE REMOVED; OR

(II) MITIGATED IN A MANNER IN WHICH 1/2 ACRE OF FOREST IS
PERMANENTLY PROTECTED FOR EACH ACRE REMOVED;

(16) THE CONSTRUCTION OF A NEW FEDERAL GOVERNMENT FACILITY
PROJECTED TO HOUSE THE EMPLOYMENT OF AT LEAST 2,500 PERSONS; AND

(17) THE CONSTRUCTION OF MULTIFAMILY HOUSING, CONSISTING OF
A SINGLE STRUCTURE CONTAINING AT LEAST 25 DWELLING UNITS, PROVIDED THAT
THE AREA OF FOREST REMOVED SHALL BE:

(I) REFORESTED AT A RATIO OF AT LEAST 1/4 ACRE
REPLANTED FOR EACH ACRE REMOVED; OR

(II) MITIGATED IN A MANNER IN WHICH 1/2 ACRE OF FOREST IS
PERMANENTLY PROTECTED FOR EACH ACRE REMOVED.

5-1603.

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

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

(II) AFFORDING DUE CONSIDERATION TO THE POLICY GOALS
ESTABLISHED UNDER:

1. TITLE 5, SUBTITLE 7A OF THE STATE FINANCE AND
PROCUREMENT ARTICLE; AND

2. THE PLANS ADOPTED UNDER TITLE 1, SUBTITLE 4
AND TITLE 3 OF THE LAND USE ARTICLE.

(c) (3) (ii) A local forest conservation program, when approved by the
Department, may:

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

2. [Waive] PROVIDE FOR THE WAIVER OR MODIFICATION OF the requirements of this subtitle for previously developed areas covered by impervious surface and located in priority funding areas at the time of the application for subdivision plan, grading, or sediment control permit approval.

5-1605.

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

(I) PROVIDE NOTICE THAT IS CONSISTENT WITH LOCAL AUTHORITY NOTICE REQUIREMENTS TO ALL PROPERTY OWNERS ABUTTING AND ADJACENT TO THE BOUNDARY OF THE SUBJECT PROPERTY OF ANY PROPOSED CLEARING OF A PRIORITY RETENTION AREA AS DESCRIBED IN § 5-1607(C) OF THIS SUBTITLE; AND

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

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

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

(3) (I) Within 45 days from receipt of the forest conservation plan, the Department or local authority shall notify the applicant whether the forest conservation plan is complete.

(II) If the Department or local authority fails to notify the applicant about the forest conservation plan within 45 days, the plan shall be treated as complete and approved.

(III) The Department or local authority may require further information or provide for an extension of this deadline for an additional 15 days for extenuating circumstances.

(IV) In addition, at the request of the applicant, the State or local authority may extend this deadline for extenuating circumstances.

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

1 ACCORDANCE WITH THE MARYLAND RULES NOT LATER THAN 30 DAYS AFTER
2 APPROVAL OF THE FOREST CONSERVATION PLAN.

3 (II) ANY JUDICIAL REVIEW OF A FOREST CONSERVATION PLAN
4 SHALL BE:

5 1. CONDUCTED IN ACCORDANCE WITH THE MARYLAND
6 RULES; AND

7 2. LIMITED TO THE RECORD COMPILED BY THE
8 DEPARTMENT OR THE LOCAL AUTHORITY.

9 5–1606.

10 (a) (1) For the following land use categories, tracts having less than 20% of the
11 net tract area in forest cover shall be afforested up to 20% of the net tract area:

12 (i) Agriculture and resource areas; and

13 (ii) Medium density residential areas.

14 (2) For the following land use categories, tracts having less than 15% of the
15 net tract area in forest cover shall be afforested up to 15% of the net tract area:

16 (i) Institutional development areas;

17 (ii) High density residential areas;

18 (iii) Mixed use and planned unit development areas; and

19 (iv) Commercial and industrial use areas.

20 (3) Afforestation requirements must conform to the conditions in §§ 5–1607
21 and 5–1610 of this subtitle, including payment into the Forest Conservation Fund, if
22 afforestation on–site or off–site cannot be reasonably accomplished.

23 (4) (i) The afforestation requirements under this subsection shall be
24 accomplished within 1 year or 2 growing seasons after the completion of the development
25 project.

26 (ii) If afforestation cannot be reasonably accomplished on–site or
27 off–site, the requirement to contribute money to a Forest Conservation Fund under §
28 5–1610 of this subtitle shall be met within 90 days after the completion of the development
29 project.

(5) Linear projects that involve no change in land use may not be subject to afforestation requirements.

(6) SOLAR PHOTOVOLTAIC FACILITIES MAY NOT BE SUBJECT TO AFFORESTATION REQUIREMENTS UNDER THIS SUBTITLE.

~~(b) There is a forest conservation threshold established for all land use categories as provided in subsection (c) of this section. The forest conservation threshold means the percentage of the net tract area at which the reforestation requirement changes from a ratio of 1/4 acre planted for every 1 acre removed to a ratio of 2 acres planted for every 1 acre removed.~~

~~(c) After every reasonable effort to minimize the cutting or clearing of trees and other woody plants is exhausted in the development of a subdivision plan and 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 subsection (b) of this section and consistent with the following forest conservation thresholds for the applicable land use category:~~

~~(1) Agricultural and resource areas: 50% of net tract area;~~

~~(2) Medium density residential areas: 25% of net tract area;~~

~~(3) Institutional development areas: 20% of net tract area;~~

~~(4) High density residential areas: 20% of net tract area;~~

~~(5) Mixed use and planned unit development areas: 15% of net tract area;~~

and

~~(6) Commercial and industrial use areas: 15% of net tract area.~~

~~(d) (1) Subject to the provisions of paragraph (2) of this subsection~~ **§ 5-1606.1**
OF THIS SUBTITLE:

(I) EXCEPT AS PROVIDED IN ITEM (II) OF THIS PARAGRAPH, for all existing forest cover measured to the nearest 1/10 acre cleared on the net tract area ~~above the applicable forest conservation threshold,~~ the area of forest removed shall be reforested at a ratio of ~~1/4~~ **1** acre planted for every 1 acre ~~removed.~~ **REMOVED; AND**

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

1 **(2) UPON MEETING THE REFORESTATION AND AFFORESTATION**
2 **REQUIREMENTS IN THIS SECTION, ALL UNFORESTED RIPARIAN BUFFERS ON SITE**
3 **SHALL BE AFFORESTED AND REFORESTED, UNLESS THE APPLICANT**
4 **DEMONSTRATES TO THE DEPARTMENT OR THE LOCAL AUTHORITY THAT**
5 **AFFORESTATION IN THE RIPARIAN BUFFER:**

6 **(I) WOULD BE IN CONFLICT WITH ALLOWABLE USES AS**
7 **ESTABLISHED FOR THE RIPARIAN BUFFER;**

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

10 **(III) IS NOT SUITABLE FOR THE ESTABLISHMENT AND**
11 **RETENTION OF THE REQUIRED PLANTING MATERIALS, IN WHICH CASE SUBSTITUTE**
12 **ENVIRONMENTAL PROTECTION MEASURES MUST BE IMPLEMENTED.**

13 ~~(2) Each acre of forest retained on the net tract area above the applicable~~
14 ~~forest conservation threshold shall be credited against the total number of acres required~~
15 ~~to be reforested under paragraph (1) of this subsection.~~

16 ~~(e) For all existing forest cover measured to the nearest 1/10 acre cleared on the~~
17 ~~net tract area below the applicable forest conservation threshold, the area of forest removed~~
18 ~~shall be reforested at a ratio of 2 acres planted for every 1 acre removed.~~

19 ~~(C)~~ **(C)** (1) The reforestation requirements under this section shall be
20 accomplished within 1 year or 2 growing seasons after completion of the development
21 project.

22 (2) If reforestation cannot be reasonably accomplished on-site or off-site,
23 the requirement to contribute money to a Forest Conservation Fund under § 5-1610 of this
24 subtitle shall be met within 90 days after completion of the development project.

25 ~~(D)~~ **(D)** **A EXCEPT AS PROVIDED IN SUBSECTION (A)(6) OF THIS SECTION,**
26 **A** unit of local government with planning and zoning authority may adopt forest
27 conservation thresholds and afforestation and reforestation requirements as part of its local
28 forest conservation program that are more stringent than the forest conservation
29 thresholds and afforestation and reforestation requirements in this section.

30 ~~(H) ANY REFORESTATION REQUIREMENTS UNDER THIS SUBTITLE SHALL BE~~
31 ~~CALCULATED UNDER § 5-1606.1 OF THIS SUBTITLE INSTEAD OF THIS SECTION IF~~
32 ~~THE ACREAGE OF REQUIRED REFORESTATION IS GREATER AS CALCULATED UNDER~~
33 ~~§ 5-1606.1 OF THIS SUBTITLE THAN IS THE CASE AS CALCULATED UNDER THIS~~
34 ~~SECTION.~~

5-1606.1.

~~(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, FOR ALL EXISTING FOREST COVER MEASURED TO THE NEAREST 1/10 ACRE CLEARED ON A SITE, THE AREA OF FOREST CLEARED SHALL BE REFORESTED AT A RATIO OF 1 ACRE PLANTED FOR EVERY 1 ACRE CLEARED.~~

~~(2) FOR ALL EXISTING PRIORITY FOREST COVER, AS DESCRIBED UNDER § 5-1607(C) OF THIS SUBTITLE, MEASURED TO THE NEAREST 1/10 ACRE CLEARED ON A SITE, THE AREA OF FOREST CLEARED SHALL BE REFORESTED AT A RATIO OF 2 ACRES PLANTED FOR EVERY 1 ACRE CLEARED.~~

~~(B)~~ (A) (1) A LOCAL JURISDICTION MAY PROPOSE, AND THE DEPARTMENT MAY APPROVE, ALTERNATIVE AFFORESTATION, REFORESTATION, AND PRESERVATION REQUIREMENTS THAT ARE EXPECTED TO RESULT IN THE LOCAL PROGRAM AT A MINIMUM MAINTAINING ITS EXISTING LEVEL OF FOREST COVER OVER A ~~2-YEAR~~ 4-YEAR PERIOD.

(2) IF THE DEPARTMENT FINDS THAT THE PROPOSED ALTERNATIVE AFFORESTATION, REFORESTATION, AND PRESERVATION REQUIREMENTS ARE NOT EXPECTED TO MAINTAIN THE LOCAL JURISDICTION'S BASELINE LEVEL OF FOREST COVER, THE DEPARTMENT SHALL:

(I) REJECT THE PROPOSED ALTERNATIVE AFFORESTATION, REFORESTATION, AND PRESERVATION REQUIREMENTS; AND

(II) PROVIDE THE LOCAL JURISDICTION WITH WRITTEN NOTICE OF THE ELEMENTS OF THE PROPOSAL THAT NEED TO BE REVISED.

(3) IN DETERMINING WHETHER PROPOSED ALTERNATIVE AFFORESTATION, REFORESTATION, AND PRESERVATION REQUIREMENTS ARE EXPECTED TO MAINTAIN THE LOCAL JURISDICTION'S ~~BASELINE~~ EXISTING LEVEL OF FOREST COVER, THE DEPARTMENT SHALL ~~CONSIDER~~:

(I) CONSIDER CREDITS GENERATED UNDER § 5-1607(B)(3) OF THIS SUBTITLE TO BE FOREST ACREAGE;

(II) BASE ITS DETERMINATION ON THE LOCAL ANNUAL REPORTS REQUIRED UNDER § 5-1613 OF THIS SUBTITLE; AND

(III) EXCLUDE THE EFFECT OF A PROJECT:

1. APPROVED BEFORE JULY 1, 2024; OR

2. DESCRIBED IN § 5-1602(B) OF THIS SUBTITLE.

(4) ~~THE~~ ON OR BEFORE DECEMBER 31, 2028, THE DEPARTMENT SHALL RESCIND APPROVAL PROVIDE WRITTEN NOTICE REQUIRING MODIFICATION OF ALTERNATIVE AFFORESTATION, REFORESTATION, AND PRESERVATION REQUIREMENTS IF THE LOCAL PROGRAM DOES NOT MAINTAIN:

(I) MAINTAIN OR EXPAND THE LOCAL JURISDICTION'S BASELINE EXISTING LEVEL OF FOREST COVER OVER TWO CONSECUTIVE 2-YEAR PERIODS; OR

(II) SUBMIT THE LOCAL ANNUAL REPORTS REQUIRED UNDER § 5-1613 OF THIS SUBTITLE.

(5) ON OR AFTER JANUARY 1, 2029, THE DEPARTMENT MAY RESCIND APPROVAL OF ALTERNATIVE AFFORESTATION, REFORESTATION, AND PRESERVATION REQUIREMENTS IF THE LOCAL PROGRAM DOES NOT MEET A CONDITION SPECIFIED UNDER PARAGRAPH (4)(I) OR (II) OF THIS SUBSECTION.

5-1607.

(a) The preferred sequence for afforestation and reforestation shall be established by the State or local authority in accordance with the following after all techniques for retaining existing forest cover on-site have been exhausted:

(1) Those techniques that enhance existing forest and involve selective clearing or supplemental planting on-site;

(2) On-site afforestation or reforestation may be utilized where the retention options have been exhausted. In those cases, the method shall be selected in accordance with subsection (b) of this section, and the location shall be selected in accordance with subsection (d) of this section;

(3) (i) Off-site afforestation or reforestation in the same watershed or in accordance with an approved master plan may be utilized where the applicant has demonstrated that no reasonable on-site alternative exists, or where:

1. Any on-site priority areas for afforestation or reforestation have been planted in accordance with subsection (d) of this section; and

2. The applicant has justified to the satisfaction of the State or local jurisdiction that environmental benefits associated with off-site afforestation or reforestation would exceed those derived from on-site planting;

(ii) In these cases, the method shall be selected in accordance with subsection (b) of this section, and the location shall be selected in accordance with subsection (d) of this section; and

(iii) Off-site afforestation or reforestation may include the use of forest mitigation banks which have been so designated in advance by the State or local forest conservation program which is approved by the Department; and

(4) The State or local jurisdiction may allow an alternative sequence for a specific project if necessary to achieve the objectives of a local jurisdiction's land use plans or policies or to take advantage of opportunities to consolidate forest conservation efforts.

(b) Standards for meeting afforestation or reforestation requirements shall be established by the State or local program using one or more of the following methods:

(1) Forest creation in accordance with a forest conservation plan using one or more of the following:

(i) Transplanted or nursery stock;

(ii) Whip and seedling stock; or

(iii) Natural regeneration where it can be shown to adequately meet the objective of the forest conservation plan[.];

(2) ~~{The} FOR A QUALIFIED PROJECT, THE~~ use of qualified conservation completed in a forest mitigation bank TO MEET:

(I) UP TO 50% OF THE AFFORESTATION OR REFORESTATION REQUIREMENT, in which case, the afforestation or reforestation credit granted may not exceed 50% of the forest area encumbered in perpetuity[.]; **OR**

(II) IF, A LOCAL JURISDICTION PROPOSES, AND AFTER PUBLIC COMMENT, THE DEPARTMENT APPROVES A WRITTEN JUSTIFICATION FOR THE INCREASE, UP TO 60% OF THE AFFORESTATION OR REFORESTATION REQUIREMENT, IN WHICH CASE THE AFFORESTATION OR REFORESTATION CREDIT GRANTED MAY NOT EXCEED 50% OF THE FOREST AREA ENCUMBERED IN PERPETUITY;

(3) [The use of street trees in] **IN** a municipal corporation with a tree management plan, in an existing population center designated in a county master plan that has been adopted to conform with the Economic Growth, Resource Protection, and Planning Act of 1992, or in any other designated area approved by the Department as part of a local program, under criteria established by the local program, subject to the approval of the Department, using:

(i) ~~[Street]~~ **THE PLANTING OF STREET** trees as a permissible step in the priority sequence for afforestation or reforestation and, based on a mature canopy coverage, may grant full credit as a mitigation technique; ~~[and]~~

(ii) Acquisition as a mitigation technique of an off-site protective easement for existing forested areas not currently protected in perpetuity, in which case the afforestation or reforestation credit granted may not exceed 50% of the area of forest cover protected~~[.]~~;

(III) THE RESTORATION OF ON- OR OFF-SITE DEGRADED FOREST, INCLUDING SOIL ~~AMENDMENT AND STABILIZATION~~ ENHANCEMENT WITHOUT GRADING, THE REMOVAL OF INVASIVE SPECIES, WILDLIFE CONTROL, THE ~~ESTABLISHMENT~~ IMPROVEMENT OF UNDERSTORY, AND NEW TREE PLANTINGS, AS APPROPRIATE, IN WHICH CASE THE AFFORESTATION OR REFORESTATION CREDIT GRANTED MAY NOT EXCEED 50% OF THE AREA OF FOREST RESTORED; AND

(IV) THE ESTABLISHMENT OF PLANTED GREEN INFRASTRUCTURE OR PLANTED ENVIRONMENTAL SITE DESIGN PRACTICES BEYOND THE AMOUNT REQUIRED UNDER § 4-203 OF THE ENVIRONMENT ARTICLE MAY GRANT FULL CREDIT AS A MITIGATION TECHNIQUE; AND

(4) When all other options, both on-site and off-site, have been exhausted, landscaping as a mitigation technique, conducted under an approved landscaping plan that establishes a forest at least 35 feet wide and covering at least 2,500 square feet of area.

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

(i) Trees, shrubs, and plants located in sensitive areas including 100-year floodplains, intermittent ~~[and]~~ **STREAMS AND THEIR BUFFERS OF AT LEAST 50 FEET FROM THE STREAM CHANNEL**, perennial streams and their buffers **OF AT LEAST 100 FEET FROM THE STREAM CHANNEL**, coastal bays and their buffers, steep slopes, and critical habitats; ~~[and]~~

(ii) Contiguous forest that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site; ~~AND~~

(III) ~~TREES, SHRUBS, AND PLANTS~~ FOREST SUITABLE FOR FOREST INTERIOR-DWELLING SPECIES;

(IV) FOREST LOCATED IN A TIER II OR TIER III HIGH QUALITY WATERSHED AS IDENTIFIED BY THE DEPARTMENT OF THE ENVIRONMENT;

(V) FOREST LOCATED IN A WATER RESOURCE PROTECTION ZONE, A RESERVOIR WATERSHED, OR A WELLHEAD PROTECTION AREA AS IDENTIFIED BY A LOCAL JURISDICTION; AND

(VI) FORESTS IN URBAN AREAS THAT ARE ESSENTIAL;

1. AS DELINEATED IN THE PRIORITY URBAN FOREST MAPPING INCLUDED IN THE STATE FOREST CONSERVATION TECHNICAL MANUAL REQUIREMENTS; OR

2. THAT ARE MOST IMPORTANT FOR PROVIDING WILDLIFE HABITAT OR MITIGATING FLOODING, HIGH TEMPERATURES, OR AIR POLLUTION.

(2) The following trees, shrubs, plants, and specific areas shall be considered priority for retention and protection, and they shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the State or local authority, that the applicant qualifies for a variance under § 5-1611 of this subtitle:

~~(I) FOREST LAND SUITABLE FOR FOREST INTERIOR DWELLING SPECIES AND FOREST CORRIDORS CONNECTING THESE FOREST PATCHES;~~

~~(II) FOREST LAND LOCATED IN A TARGETED ECOLOGICAL AREA AS IDENTIFIED BY THE DEPARTMENT;~~

~~(III) FOREST LOCATED IN A TIER II OR TIER III HIGH QUALITY WATERSHED AS IDENTIFIED BY THE DEPARTMENT OF THE ENVIRONMENT;~~

~~(IV) FOREST LOCATED IN A WATER RESOURCE PROTECTION ZONE, A RESERVOIR WATERSHED, OR A WELLHEAD PROTECTION AREA AS IDENTIFIED BY A LOCAL JURISDICTION;~~

~~{(i)} (V)~~ Trees, shrubs, or plants identified on the list of rare, threatened, and endangered species of the U.S. Fish and Wildlife Service or the Department;

~~{(ii)} (VI)~~ Trees that are part of a historic site or associated with a historic structure or designated by the Department or local authority as a national, State, or local Champion Tree; and

~~{(iii)} (VII)~~ Trees having a diameter measured at 4.5 feet above the ground of:

1. 30 inches; or

2. 75% of the diameter, measured at 4.5 feet above the ground, of the current State Champion Tree of that species as designated by the Department.

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

(II) ANY JUDICIAL REVIEW OF A FINAL DETERMINATION MADE UNDER THIS PARAGRAPH SHALL BE:

1. CONDUCTED IN ACCORDANCE WITH THE MARYLAND RULES; AND

2. LIMITED TO THE RECORD COMPILED BY THE DEPARTMENT OR THE LOCAL AUTHORITY.

(d) The following shall be considered priority for afforestation or reforestation:

(1) Establish or enhance forest buffers adjacent to intermittent and perennial streams and coastal bays to widths of at least 50 feet;

(2) 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;

(3) Establish or enhance forest buffers adjacent to critical habitats where appropriate;

(4) Establish or enhance forested areas in 100-year floodplains;

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

(6) Establish buffers adjacent to areas of differing land use where appropriate, or adjacent to highways or utility rights-of-way;

(7) Establish forest areas adjacent to existing forests so as to increase the overall area of contiguous forest cover, when appropriate; and

(8) Use native plant materials for afforestation or reforestation, when appropriate.

(e) (1) As part of the development of a forest conservation program, the State or local government shall develop provisions for:

(i) Preservation of areas described in subsections (c) and (d)(1) and (3) of this section;

(ii) Retention as forest of all land forested, afforested, or reforested under this subtitle; and

(iii) Limitation of uses of forest to those that are not inconsistent with forest conservation, such as recreational activities and forest management under subsection (f) of this section.

(2) The provisions required in paragraph (1) of this subsection may include protective agreements for areas of forest conservation, including conservation easements, deed restrictions, and covenants.

(f) An owner may place land that is forested, afforested, or reforested under this subtitle in the forest conservation and management program under § 8–211 et seq. of the Tax – Property Article or in a forest management plan prepared by a licensed forester and approved by the local authority or the State. Reforestation shall be required when the final regeneration harvest is complete or if determined to be necessary due to the lack of adequate natural regeneration.

5–1610.1.

(c) [Mitigation] AFTER DECEMBER 31, 2020, MITIGATION banks may be allowed only [in priority]:

(1) IF THE APPLICATION WAS SUBMITTED BEFORE DECEMBER 31, 2020; OR

(2) WHEN USING:

(I) QUALIFIED CONSERVATION LOCATED IN PRIORITY RETENTION AREAS AS IDENTIFIED IN § 5–1607(C) OF THIS SUBTITLE; OR

(II) NEWLY PLANTED FOREST LOCATED IN PRIORITY AFFORESTATION OR REFORESTATION areas as identified in § 5–1607(d) of this subtitle or as identified in a comprehensive plan adopted by a local jurisdiction.

~~Article – Tax – Property~~

~~§ 211.~~

~~(a) (1) In this section the following words have the meaning indicated:~~

~~(2) "Agreement" means an agreement made under subsection (c) of this section.~~

~~(3) "Program" means the forest conservation and management program.~~

~~(b) The Department of Natural Resources shall establish the program to:~~

~~(1) encourage the preservation or development of land for productive woodland purposes;~~

~~(2) increase the income of persons in the State from the sale of timber;~~

~~(3) prevent flooding of land and the loss of the State's soil;~~

~~(4) provide wooded areas for the use and enjoyment of all individuals in the State; and~~

~~(5) promote the welfare and assets of the State.~~

~~(c) (1) [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE owner of at least 5 contiguous acres of land may make an agreement with the Department of Natural Resources to place the land in the program.~~

~~(2) IN BALTIMORE CITY AND ANNE ARUNDEL, BALTIMORE, HOWARD, MONTGOMERY, AND PRINCE GEORGE'S COUNTIES, THE OWNER OF AT LEAST 2 CONTIGUOUS ACRES OF LAND MAY MAKE AN AGREEMENT WITH THE DEPARTMENT OF NATURAL RESOURCES TO PLACE THE LAND IN THE PROGRAM.~~

Chapter 645 of the Acts of 2021

SECTION 11. AND BE IT FURTHER ENACTED, That, except as provided in Section 10 of this Act, this Act shall take effect June 1, 2021. [Sections 1, 2, and] SECTION 7 of this Act shall remain effective for a period of 3 years and 1 month and, at the end of June 30, 2024, [Sections 1, 2, and] SECTION 7 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect. Subject to Section 10 of this Act, Sections 3, 4, and 5 of this Act shall remain effective for a period of 10 years and 1 month and, at the end of June 30, 2031, Sections 3, 4, and 5 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect. Section 6 of this Act shall remain effective for a period of 2 years and 1 month and, at the end of June 30, 2023, Section 6 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Natural Resources

5–1610.

(b) There is a Forest Conservation Fund in the Department.

(e) (1) The Department shall accomplish the reforestation or afforestation for which the money is deposited within [2] 5 years or [3] 6 growing seasons, as appropriate, after receipt of the money.

(2) Money deposited in the Fund under subsection (c) of this section shall remain in the Fund for a period of [2] 5 years or [3] 6 growing seasons, and at the end of that time period, any portion that has not been used OR ENCUMBERED to meet the afforestation or reforestation requirements shall be returned to the person who provided the money to be used for documented tree planting in the same county or watershed beyond that required by this subtitle or other applicable statutes.

SECTION 5. AND BE IT FURTHER ENACTED, That:

(a) The Department of Natural Resources shall update the State Forest Conservation Technical Manual on or before December 31, 2024, for consistency with this Act.

(b) The updates shall include:

(1) guidance on:

(i) when the clearing of a priority area for retention described in § 5–1607(c) of the Natural Resources Article, as enacted by this Act, may be justified, including for purposes related to forest health or composition; and

(ii) the use of site design practices to minimize clearing; and

(2) standards by which credit may be granted for the restoration of degraded forest.

SECTION 6. AND BE IT FURTHER ENACTED, That the Department of Natural Resources shall establish a workgroup to evaluate and recommend incentives for private landowners to conserve forest, including adjusting the minimal acreage of contiguous forested land required to qualify for the forest conservation and management program established under § 8–211 of the Tax – Property Article.

SECTION 7. AND BE IT FURTHER ENACTED, That, on or before December 31, 2023, the Department of Natural Resources shall issue a description of the procedures the Department will use to determine whether a local program is expected to maintain or expand the existing level of forest cover in the jurisdiction.

1 SECTION 8. AND BE IT FURTHER ENACTED, That, on or before December 31,
2 2023, the Department of Natural Resources shall approve or reject alternative
3 afforestation, reforestation, and preservation requirements adopted by a local jurisdiction
4 before September 1, 2023.

5 SECTION 9. AND BE IT FURTHER ENACTED, That this Act may not apply to:

6 (1) a solarvoltaic facility granted a certificate of public convenience and
7 necessity by the Public Service Commission under § 7-207 of the Public Utilities Article
8 before July 1, 2023;

9 (2) a forest conservation plan approved before July 1, 2024, that is
10 associated with a subdivision plan, site plan, building permit, or grading or sediment
11 control application; or

12 (3) a revision to a plan or permit described in item (2) of this section that
13 does not materially alter the proposed or actual limits of disturbance.

14 SECTION 10. AND BE IT FURTHER ENACTED, That Sections 1, 2, and 3 of this
15 Act shall take effect July 1, 2024.

16 SECTION ~~4~~ 11. AND BE IT FURTHER ENACTED, That, except as provided in
17 Section 10 of this Act, this Act shall take effect ~~October~~ July 1, 2023.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.

HOUSE BILL 1511

M1

(4lr3538)

ENROLLED BILL

— *Environment and Transportation/Education, Energy, and the Environment* —

Introduced by **Delegate Love**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Forest Conservation Act – Modifications**

3 FOR the purpose of ~~establishing a~~ *altering the* definition of “qualified conservation” for
4 purposes of provisions of law related to forest mitigation banks; altering rules for the
5 use of qualified conservation to meet afforestation or reforestation requirements;
6 adding certain areas and vegetation considered to be a priority for forest retention
7 and protection under certain circumstances; *providing that certain solar voltaic*
8 *facilities may not be subject to certain afforestation requirements;* requiring the
9 Department of Natural Resources to update a certain model local government
10 ordinance and adopt certain regulations relating to forest conservation on or before
11 certain dates; delaying the dates on which certain provisions of the Forest
12 Conservation Act will apply to certain ~~solar voltaic facilities and~~ forest conservation
13 plans; delaying the effective date of certain provisions of the Forest Conservation
14 Act; and generally relating to the Forest Conservation Act.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



BY renumbering

~~Article – Natural Resources~~
~~Section 5–1601(gg) through (pp)~~
~~to be Section 5–1601(hh) through (qq), respectively~~
~~Annotated Code of Maryland~~
~~(2023 Replacement Volume and 2023 Supplement)~~

BY repealing and reenacting, without amendments,

Article – Natural Resources
Section 5–1601(a)
Annotated Code of Maryland
(2023 Replacement Volume and 2023 Supplement)

BY adding to

~~Article – Natural Resources~~
~~Section 5–1601(gg) and 5–1607(c)(3)~~
~~Annotated Code of Maryland~~
~~(2023 Replacement Volume and 2023 Supplement)~~

BY repealing and reenacting, with amendments,

Article – Natural Resources
Section 5–1601(gg), 5–1606(a), 5–1607(b)(2) and (c)(1), and 5–1610.1(c)
Annotated Code of Maryland
(2023 Replacement Volume and 2023 Supplement)

BY adding to

Article – Natural Resources
Section 5–1607(c)(3)
Annotated Code of Maryland
(2023 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, with amendments,

Chapter 541 of the Acts of the General Assembly of 2023
Section 5, ~~9~~, and 10

BY repealing and reenacting, with amendments,

Chapter 542 of the Acts of the General Assembly of 2023
Section 5, ~~9~~, and 10

BY repealing and reenacting, with amendments,

Chapter 645 of the Acts of the General Assembly of 2021
Section 11

SECTION 1. AND BE IT ENACTED BY THE GENERAL ASSEMBLY OF
MARYLAND, ~~That Section(s) 5–1601(gg) through (pp) of Article – Natural Resources of the~~
~~Annotated Code of Maryland be renumbered to be Section(s) 5–1601(hh) through (qq),~~
~~respectively.~~

~~SECTION 1. 2. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND~~
~~AND BE IT FURTHER ENACTED;~~ That the Laws of Maryland read as follows:

Article – Natural Resources

5–1601.

(a) In this subtitle the following words have the meanings indicated.

~~(GG) “QUALIFIED CONSERVATION” MEANS THE CONSERVATION OF ALL OR A~~
~~PART OF AN EXISTING FOREST THAT:~~

~~(1) HAS BEEN APPROVED BY THE APPROPRIATE STATE OR LOCAL~~
~~FOREST CONSERVATION PROGRAM FOR THE PURPOSE OF ESTABLISHING A FOREST~~
~~MITIGATION BANK; AND~~

~~(2) IS ENCUMBERED IN PERPETUITY BY A RESTRICTIVE EASEMENT,~~
~~COVENANT, OR ANOTHER SIMILAR MECHANISM RECORDED IN THE COUNTY LAND~~
~~RECORDS TO CONSERVE ITS CHARACTER AS A FOREST.~~

(gg) *“Qualified conservation” means the conservation of all or a part of an existing forest that:*

(1) *[Was] HAS BEEN approved [on or before December 31, 2020,] by the appropriate State or local forest conservation program for the purpose of establishing a forest mitigation bank; and*

(2) *Is encumbered in perpetuity by a restrictive easement, covenant, or another similar mechanism recorded in the county land records to conserve its character as a forest.*

5–1606.

(a) (1) *For the following land use categories, tracts having less than 20% of the net tract area in forest cover shall be afforested up to 20% of the net tract area:*

(i) *Agriculture and resource areas; and*

(ii) *Medium density residential areas.*

(2) *For the following land use categories, tracts having less than 15% of the net tract area in forest cover shall be afforested up to 15% of the net tract area:*

(i) *Institutional development areas;*

(ii) High density residential areas;

(iii) Mixed use and planned unit development areas; and

(iv) Commercial and industrial use areas.

(3) Afforestation requirements must conform to the conditions in §§ 5-1607 and 5-1610 of this subtitle, including payment into the Forest Conservation Fund, if afforestation on-site or off-site cannot be reasonably accomplished.

(4) (i) The afforestation requirements under this subsection shall be accomplished within 1 year or 2 growing seasons after the completion of the development project.

(ii) If afforestation cannot be reasonably accomplished on-site or off-site, the requirement to contribute money to a Forest Conservation Fund under § 5-1610 of this subtitle shall be met within 90 days after the completion of the development project.

(5) Linear projects that involve no change in land use may not be subject to afforestation requirements.

(6) SOLAR PHOTOVOLTAIC FACILITIES MAY NOT BE SUBJECT TO AFFORESTATION REQUIREMENTS UNDER THIS SUBTITLE.

5-1607.

(b) Standards for meeting afforestation or reforestation requirements shall be established by the State or local program using one or more of the following methods:

(2) The use of qualified conservation completed in a forest mitigation bank
TO MEET:

(I) UP TO 50% OF THE AFFORESTATION OR REFORESTATION REQUIREMENT, in which case, the afforestation or reforestation credit granted may not exceed 50% of the forest area encumbered in perpetuity; OR

(II) IF A LOCAL JURISDICTION PROPOSES AND, AFTER PUBLIC COMMENT, THE DEPARTMENT APPROVES A WRITTEN JUSTIFICATION FOR THE INCREASE, UP TO 60% OF THE AFFORESTATION OR REFORESTATION REQUIREMENT, IN WHICH CASE THE AFFORESTATION OR REFORESTATION CREDIT GRANTED MAY NOT EXCEED 50% OF THE FOREST AREA ENCUMBERED IN PERPETUITY.

(c) (1) The following trees, shrubs, plants, and specific areas shall be considered priority for retention and protection, and they shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the State or local

1 authority, that reasonable efforts have been made to protect them and the plan cannot
2 reasonably be altered:

3 (i) Trees, shrubs, and plants located in sensitive areas including
4 100-year floodplains, intermittent [and] STREAMS AND THEIR BUFFERS OF AT LEAST
5 50 FEET FROM THE STREAM CHANNEL, perennial streams and their buffers OF AT
6 LEAST 100 FEET FROM THE STREAM CHANNEL, coastal bays and their buffers, steep
7 slopes, and critical habitats; [and]

8 (ii) Contiguous forest that connects the largest undeveloped or most
9 vegetated tracts of land within and adjacent to the site;

10 (III) FOREST SUITABLE FOR FOREST INTERIOR-DWELLING
11 SPECIES;

12 (IV) FOREST LOCATED IN A TIER II OR TIER III HIGH QUALITY
13 WATERSHED AS IDENTIFIED BY THE DEPARTMENT OF THE ENVIRONMENT;

14 (V) FOREST LOCATED IN A WATER RESOURCE PROTECTION
15 ZONE, A RESERVOIR WATERSHED, OR A WELLHEAD PROTECTION AREA AS
16 IDENTIFIED BY A LOCAL JURISDICTION; AND

17 (VI) FORESTS IN URBAN AREAS:

18 1. AS DELINEATED IN THE PRIORITY URBAN FOREST
19 MAPPING INCLUDED IN THE STATE FOREST CONSERVATION TECHNICAL MANUAL
20 REQUIREMENTS; OR

21 2. THAT ARE MOST IMPORTANT FOR PROVIDING
22 WILDLIFE HABITAT OR MITIGATING FLOODING, HIGH TEMPERATURES, OR AIR
23 POLLUTION.

24 (3) (I) THE DEPARTMENT OR A LOCAL AUTHORITY SHALL ISSUE
25 WRITTEN FINDINGS AND JUSTIFICATION FOR ANY CLEARING OF A PRIORITY
26 RETENTION AREA DESCRIBED IN PARAGRAPH (1) OR (2) OF THIS SUBSECTION.

27 (II) ANY JUDICIAL REVIEW OF A FINAL DETERMINATION MADE
28 UNDER THIS PARAGRAPH SHALL BE:

29 1. CONDUCTED IN ACCORDANCE WITH THE MARYLAND
30 RULES; AND

31 2. LIMITED TO THE RECORD COMPILED BY THE
32 DEPARTMENT OR THE LOCAL AUTHORITY.

1 5-1610.1.

2 (c) [Mitigation] AFTER DECEMBER 31, 2020, MITIGATION banks may be
3 allowed only [in priority]:

4 (1) IF THE APPLICATION WAS SUBMITTED BEFORE DECEMBER 31,
5 2020; OR

6 (2) WHEN USING:

7 (I) QUALIFIED CONSERVATION LOCATED IN PRIORITY
8 RETENTION AREAS AS IDENTIFIED IN § 5-1607(C) OF THIS SUBTITLE; OR

9 (II) NEWLY PLANTED FOREST LOCATED IN PRIORITY
10 AFFORESTATION OR REFORESTATION areas as identified in § 5-1607(d) of this subtitle
11 or as identified in a comprehensive plan adopted by a local jurisdiction.

12 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
13 as follows:

14 **Chapter 541 of the Acts of 2023**

15 SECTION 5. AND BE IT FURTHER ENACTED, That:

16 (a) The Department of Natural Resources shall update the State Forest
17 Conservation Technical Manual on or before December 31, 2024, for consistency with this
18 Act.

19 (b) The updates shall include:

20 (1) guidance on:

21 (i) when the clearing of a priority area for retention described in §
22 5-1607(c) of the Natural Resources Article, as enacted by this Act, may be justified,
23 including for purposes related to forest health or composition; and

24 (ii) the use of site design practices to minimize clearing; and

25 (2) standards by which credit may be granted for the restoration of
26 degraded forest.

27 (C) **ON OR BEFORE JULY 1, 2025, THE DEPARTMENT OF NATURAL**
28 **RESOURCES SHALL UPDATE THE MODEL LOCAL GOVERNMENT ORDINANCE**
29 **REQUIRED UNDER § 5-1609 OF THE NATURAL RESOURCES ARTICLE FOR**
30 **CONSISTENCY WITH THIS ACT.**

(D) ON OR BEFORE JULY 1, 2026, THE DEPARTMENT OF NATURAL RESOURCES SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS ACT.

~~SECTION 9. AND BE IT FURTHER ENACTED, That this Act may not apply to:~~

~~(1) a solarvoltaic facility granted a certificate of public convenience and necessity by the Public Service Commission under § 7-207 of the Public Utilities Article before July 1, [2023] 2025;~~

~~(2) a forest conservation plan approved before July 1, [2024] 2026, that is associated with a subdivision plan, site plan, building permit, or grading or sediment control application; or~~

~~(3) a revision to a plan or permit described in item (2) of this section that does not materially alter the proposed or actual limits of disturbance.~~

SECTION 10. AND BE IT FURTHER ENACTED, That Sections 1, 2, and 3 of this Act shall take effect July 1, [2024] 2026.

Chapter 542 of the Acts of 2023

SECTION 5. AND BE IT FURTHER ENACTED, That:

(a) The Department of Natural Resources shall update the State Forest Conservation Technical Manual on or before December 31, 2024, for consistency with this Act.

(b) The updates shall include:

(1) guidance on:

(i) when the clearing of a priority area for retention described in § 5-1607(c) of the Natural Resources Article, as enacted by this Act, may be justified, including for purposes related to forest health or composition; and

(ii) the use of site design practices to minimize clearing; and

(2) standards by which credit may be granted for the restoration of degraded forest.

(C) ON OR BEFORE JULY 1, 2025, THE DEPARTMENT OF NATURAL RESOURCES SHALL UPDATE THE MODEL LOCAL GOVERNMENT ORDINANCE REQUIRED UNDER § 5-1609 OF THE NATURAL RESOURCES ARTICLE FOR CONSISTENCY WITH THIS ACT.

(D) ON OR BEFORE JULY 1, 2026, THE DEPARTMENT OF NATURAL RESOURCES SHALL ADOPT REGULATIONS TO CARRY OUT THIS ACT.

~~SECTION 9. AND BE IT FURTHER ENACTED, That this Act may not apply to:~~

~~(1) a solarvoltaic facility granted a certificate of public convenience and necessity by the Public Service Commission under § 7-207 of the Public Utilities Article before July 1, [2023] 2025;~~

~~(2) a forest conservation plan approved before July 1, [2024] 2026, that is associated with a subdivision plan, site plan, building permit, or grading or sediment control application; or~~

~~(3) a revision to a plan or permit described in item (2) of this section that does not materially alter the proposed or actual limits of disturbance.~~

SECTION 10. AND BE IT FURTHER ENACTED, That Sections 1, 2, and 3 of this Act shall take effect July 1, [2024] 2026.

Chapter 645 of the Acts of 2021

SECTION 11. AND BE IT FURTHER ENACTED, That, except as provided in Section 10 of this Act, this Act shall take effect June 1, 2021. [Sections 1, 2, and] SECTION 7 of this Act shall remain effective for a period of 3 years and 1 month and, at the end of June 30, 2024, [Sections 1, 2, and] SECTION 7 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect. Subject to Section 10 of this Act, Sections 3, 4, and 5 of this Act shall remain effective for a period of 10 years and 1 month, and, at the end of June 30, 2031, Sections 3, 4, and 5 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect. Section 6 of this Act shall remain effective for a period of 2 years and 1 month and, at the end of June 30, 2023, Section 6 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act may not apply to:

(1) a solarvoltaic facility granted a certificate of public convenience and necessity by the Public Service Commission under § 7-207 of the Public Utilities Article before July 1, 2023;

(2) a forest conservation plan approved before July 1, 2024, that is associated with a subdivision plan, site plan, building permit, or grading or sediment control application; or

1 (3) a revision to a plan or permit described in item (2) of this section that
2 does not materially alter the proposed or actual limits of disturbance.

3 SECTION 4. AND BE IT FURTHER ENACTED, That Sections 1 and 3 of this Act
4 shall take effect July 1, 2024.

5 SECTION ~~2. 2. 2.~~ 5. AND BE IT FURTHER ENACTED, That, except as provided in
6 Section 4 of this Act, this Act shall take effect ~~June July~~ June 1, 2024.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.



MEMORANDUM

July 5, 2024

TO: Mayor and Council

FROM: Community Planning and Development Services & Recreation and Parks

SUBJECT: Native vs. Non-Native Tree Plantings

Recent discussions with members of the Mayor and Council have raised concerns regarding the use of non-native tree species within the City of Rockville. The concern arose during a discussion regarding proposed amendments to Chapter 10.5 of the City Code, the Forest and Tree Preservation Ordinance (FTPO).

Staff have evaluated this concern through the lens of the various tree planting requirements within the City. As such, Community Planning and Development Services (CPDS) has worked closely with Recreation and Parks (RPD), to provide a comprehensive response.

Chapter 10.5

Chapter 10.5 of the City Code, the Forest and Tree Preservation Ordinance (FTPO) has a variety of requirements that require tree plantings for subject development applications, consistent with Chapter 10.5-11.

In summary, the FTPO has requirements, that result in tree plantings for the following:

- Forest Conservation
 - Afforestation
 - Forest Retention
 - Reforestation
- Minimum Tree Cover
- Significant Tree Replacement

While the FTPO outlines the requirements for applicable development applications to complete through the administration of Natural Resources Inventories/Forest Stand Delineations (NRI/FSD) and Forest Conservation Plans (FCP), the Forest Conservation Manual (FCM) further articulates how to comply with the requirements of the FTPO. The FCM is adopted by resolution, consistent with Chapter 10.5-4.

Native Requirements in the FTPO

The FTPO's only reference to the use of native plant material is in Chapter 10.5-23, where prioritizes the use of native plant material (trees, shrubs, and groundcover) to meet afforestation and reforestation requirements (see excerpt below).

Sec. 10.5-23. - Preferred sequence and priorities for tree replacement, reforestation and afforestation.



- (a) Tree replacement, reforestation and afforestation, where possible, shall be provided for in the following preferred sequence:
 - (1) Selective clearing and supplemental planting on-site;
 - (2) Onsite planting using transplanted or nursery stock that is equal to or greater than one inch caliper;
 - (3) Landscaping of areas on-site under an approved landscaping plan.
- (b) The following are considered a priority for reforestation and afforestation, and are to be employed in the following preferred sequence:
 - (1) Establish or enhance stream buffer areas;
 - (2) Establish or enhance forested areas on 100-year floodplains;
 - (3) Establish or increase connections between forested areas;
 - (4) Establish or enhance forest buffers adjacent to critical habitats;
 - (5) Stabilize steep slopes;
 - (6) Increase the overall area of contiguous forest cover;
 - (7) Enhance nontidal wetlands;
 - (8) Use native plant materials;
 - (9) Establish or enhance buffers between differing land uses or adjacent to highways or utility rights-of-way;
 - (10) Establish or enhance forested buffers adjacent to parkland.

(Ord. No. 12-07, 7-16-07)

Discussion/Summary

Staff finds the current language in the FTPO, requiring the prioritization of native plantings to meet the requirements of afforestation and reforestation is most appropriate. This language affords staff the flexibility to utilize superior plant material, based on a variety of characteristics such as location, adjacent improvements, and general site constraints (soil, drainage, etc.) in addition to disease and pest resistance, growth habit, branching structure, ecological and aesthetic value, as well as many other considerations.

Staff notes that for traditional reforestation projects, staff has exclusively utilized native plant materials. In a traditional reforestation setting, urban constraints and other factors are less pervasive, resulting in a native plant palette being the most appropriate selection.

Staff agrees with the pros and cons clearly articulated further in the memo, in reference to street trees and the Master Street Tree Plan. Those same factors apply when reviewing a forest conservation plan, or other tree save plan in an urban setting (the vast majority of development applications in the City).

Chapter 25.21.21 and Landscape, Screening, & Lighting Manual

Within the Zoning Ordinance (Chapter 25 of the City Code) Article 21, regarding Plats, and Subdivision Regulations, Section 21 addresses tree planting regulations when subdivision is occurring. This includes lot tree requirements, wherein a subdivider is required to provide a minimum of one tree on each residential lot per 2,000 square feet, not to exceed 3 trees per lot. Existing trees may be counted towards the lot tree requirement. Any newly planted trees used to meet the lot tree requirement must be native, per Article 21. There is no further definition or explanation of native plants.

The City's Landscape, Screening, and Lighting Manual outlines landscaping requirements for any development subject to Site Plan review or Project Plan review per Article 7 of the Zoning Ordinance. The Manual states that existing native vegetation that is deemed suitable per the requirements of the manual may be used to meet required landscape plantings. This is the only mention of native plants in the Manual.

Master Street Tree Plan

The City of Rockville acknowledges its legal and moral responsibility to plant and maintain safe healthy trees on municipal lands and public streets. The Master Street Tree Plan aims to enhance the city's aesthetic appeal and mitigate tree-related issues while providing numerous benefits from trees. Tree species selected for planting on streets and municipal lands are chosen based on their growth habits, width of tree lawn, presence of utilities, aesthetics, availability of species for purchase, and size at maturity to help avoid future conflicts with roadway use. While the city prioritizes native species to support local habitats, not all native species are suitable for right-of-way planting. For instance, Silver Maple have weak branching, Black Walnut produce large heavy fruit, and Hickory species do not transplant well and are not readily available from nursery growers. Consequently, non-invasive, non-native trees are selected to provide diversity. City staff remain informed about environmental and climate research that could impact municipal and street trees, ensuring appropriate care and planting. For example, we no longer plant native Ash trees due to Emerald Ash Borer.

Consideration of what species are considered native vs. non-native can ultimately determine what the city will plant on our roadsides and in our parks. Species selection could be limited to Montgomery County, the state of Maryland, the east coast, or the continental US. Some species we currently plant are hybrids between a native and a non-native tree. For example, London Planetree is a cross between American Sycamore and Oriental Planetree. London Planetree is desirable due to its resistance to anthracnose disease passed on from the Oriental Planetree.

Benefits and Drawbacks of Species Selection

Native Trees

Benefits:

- Adaptation: Native trees are well-adapted to local climate, soil and ecosystem

- Biodiversity: Native trees support local wildlife, including birds, insects and other animals, thus promoting biodiversity.

Drawbacks:

- Urban suitability: Some native trees are not ideal for urban environments due to growth habits, such as very large fruit.
- Maintenance Issues: Certain native trees may have weak branch attachments.
- Pest and Disease susceptibility: Native trees are not immune to pests and diseases, which can be difficult to treat in an urban setting. Some examples include Dutch Elm Disease, Emerald Ash Borer, and Spongy Moth.
- Climate Adaptability: Native trees are adapted to current conditions, but improper species selection may be less able to withstand climate change in an urban environment.

Non-Native Trees

Benefits:

- Urban Suitability: Non-native trees can be selected for specific traits that makes them equally suitable for urban environments.
- Maintenance Issues: Non-native trees can be selected for ideal growth habit for urban conditions that allow them to be optimally maintained in an urban environment.
- Climate Adaptability: Non-native trees can be selected for long-term climate change adaptability. Overtime certain species will become native in a particular location due to changing environmental conditions.

Drawbacks:

- Invasive Potential: There is a risk to any non-native species becoming an invasive species, prime example being Callery Pear. Care is taken to prevent/monitor all tree plants to prevent invasive species development.
- Ecological Impact: Non-native trees might not provide the same level of support for local wildlife particularly in parks.

Keys for Success:

- Environmental Impacts: Choose trees that do not disrupt local ecosystems and still provide food and habitat for native wildlife when possible.
- Urban Constraints: Select species that are suitable for the constraints of an urban area, such as pollution, root structure and growth pattern/size.
- Maintenance Needs: Trees should require minimal maintenance and do not pose a hazard through weak branches or excessive litter.
- Climate resilience: Select species to withstand current and future environmental conditions when possible. If a species is no longer succeeding in an urban environment consideration is made to transition to something more suited for the environment.

- Aesthetic and Functional Value: Species chosen are meant to increase beauty of the streetscape and provide functional benefits such as shade, air quality, stormwater management and carbon sequestration.

Discussion/Summary

Native trees are often preferred for ecological benefits and adaptation to the current local environment, non-native trees offer practical advantages in the urban setting especially in consideration for City rights-of-ways. According to the U.S. Fish and Wildlife Service, there are 59 trees native to Montgomery County, the city currently plants 15 of them. Many of these native trees are not suitable as street trees. For example, evergreens cannot be used because of sight-line issues, hickories are hard to transplant, and ash trees have been decimated by Emerald Ash Borer. The City's goal is to maximize the benefits and drawbacks of native and non-native tree species to provide beneficial street and park trees throughout the City of Rockville.

Improvements to Rockville's Development and Permitting Processes

Faster, Accountable, Smarter and Transparent (FAST)

Project Charter

Introduction

Implementing improvements to the development and permitting process involves engagement and support from several dozen staff members within multiple City departments. This multi-department project will require an agreed-upon plan to unify staff in dedicating the time and working effectively together to review and modify existing process and develop and implement new processes and associated requirements. This Project Charter, a roadmap for completing this initiative, describes who, what, when, where, why, and how the City will complete this important project. The Mayor and Council reviewed and, with revisions, endorsed the Project Charter.

Project Charter

The first step to initiate this project is to establish a “plan to do the project” or a Project Charter. This document contains information on:

1. Reason and purpose, and outcomes for the project;
2. Organizational structure with roles, responsibilities, decision-making authority, and project assignments;
3. Description of the community outreach and engagement strategy;
4. Reasonable schedules for project components; and
5. An implementation and monitoring plan.

1. Reason and Purpose

Significant changes to development review and permitting processes are needed to improve efficiency and effectiveness and deliver of a high level of service to our customers. The Mayor and Council's 2016- 2019 priority initiatives is the delivery of efficient and effective services to our customers (both residents and the business community). Specifically, the Mayor and Council has directed that our processes to deliver services must be efficient, well documented, and administered equitably by a committed workforce of employees with a “can-do” attitude. Improvement to the development review and permitting process is one of the top five priorities for the Mayor and Council.

In addition, the Mayor and Council has charged staff to support economic development by encouraging new investment through an efficient development process that balances and respects private and community interests in the process.

Attachment A

Successfully developing and implementing significant improvements to Rockville's Development and Permitting Processes must be accomplished to meet the Mayor and Council's priority initiatives. There is a sense of urgency by the Mayor and Council, the City Manager, and our customers to successfully develop and follow-through with implementing improvements to these processes. Progress must be shown throughout the project including initial short-term accomplishments.

Outcomes

This project's proposed outcomes are grouped into three areas – **Faster**, **Accountable**, **Smarter** and **Transparent**. All three outcomes are equally important. We shouldn't just focus on faster because faster is not always the best outcome. Taking more time may be a smarter choice to gain the needed information to make the right decisions. In turn, we shouldn't analyze items to the extent that we unnecessarily slow down the process. Likewise, we need to establish processes that are understandable, fair, and provide information that is accessible to the public to create a truly transparent process.

Faster

The Mayor and Council's priority initiatives demand an efficient development and permitting process. At the end of this project, non-value-added steps and procedures need to be identified and eliminated, and others streamlined, to improve processes that yield *faster* turn-around times and decisions on most applications. Due to the complexity of some projects, it may be difficult to achieve a faster process and still take the time that is needed for the Mayor and Council to make good decisions. One opportunity to make the process faster will be providing reliable and predictable schedules for processing complete applications. These schedules must have clear expectations and deadlines for both staff and applicants.

Accountable

The City must have an extra focus on meeting a higher level of customer service. The City is accountable for delivering this higher level of customer service and the recommending actions from this effort needs to reflect and measure our progress toward this end. In these recommended actions, the applicants/customers also need to be accountable for the submission of complete/accurate applications and timely resubmissions.

Smarter

Improvements to the development and permitting process should result in gains in staff's efficiency and effectiveness. Staff within multiple departments need to work smarter by delivering seamless service through:

- Processes that are accessible and easily understood;
- Sound and timely decisions;
- Reasonable ordinances and regulations that are consistently applied;
- Solution-oriented approaches;
- Processes that balance and respect private and community interests; and
- Unified delivery of services (multiple departmental staff working as one for customers).

The use of technology will allow staff to work much *smarter* by accomplishing more with less. For example, new permitting software integrated with other systems through an Enterprise Resource Planning (ERP) system and an electronic plan submission system will provide for easier submittals and reviews, as well as tracking applications and promptly identifying and addressing avoidable delays.

Transparent

The City must provide for a transparent process through openness, accountability, and honesty. Our customers should know what is expected and have access to the public information they need to develop within the city.

Transparency is an obligation by the City to share information with citizens on the development and permitting process and how decisions are made based on adopted ordinances, plans, and requirements. This outcome is important to maintain trust with the citizens and customers we serve and holds staff and other public officials accountable for our actions.

Project Name:

Since these outcomes are critical to the success of this project and their prominence is important, the name of the project is **FAST** (Faster, Accountable, Smarter, and Transparent). This name will keep our expected results always in the forefront among staff and stakeholders and will be a constant measurement for our progress and success.

2. Organizational Structure

The organizational structure is composed of:

- **Mayor and Council (M&C)** – The Mayor and Council has provided the priority initiatives and overall purpose of this project. M&C must be kept informed of our efforts and progress. They also need to approve code changes that will be required to implement certain process improvements. The Mayor and Council must ultimately decide the balance needed to respect both public and private interest when considering code and process changes. The Mayor and Council provides guidance and direction on policy and process changes.
- **City Manager (Rob DiSpirito)** – The City Manager helps develop and ultimately approves the Project Charter and provides overall direction to the Executive Team and Project Manager at key points throughout the project.
- **Executive Team** – This team is composed of the Directors of Public Works, Recreation and Parks, and Planning and Development Services. Craig Simoneau, Tim Chesnutt and Ricky Barker are responsible for the development and execution of the Project Charter, making executive decisions for the Project Team when appropriate, providing overall communication to staff within their departments, providing resources, encouragement, and support for staff working on the project. The Executive Team, in conjunction with the City Manager, will have final say over the recommendations, actions, and implementation schedule. This Team will also play a critical role in establishing an effective process for making key decisions among competing objectives. The Executive Team will need to coordinate closely with the City Attorney's Office on changes to codes and processes. The Team, with the City Attorney, will need to determine how best to accomplish this (e.g., representation on a team or teams). This Team will also provide quarterly progress reports to the Mayor and Council.
- **Project Manager (PM)** – The project manager is the Director of Planning and Development Services, Ricky Barker. Ricky is accountable to the Executive Team and the City Manager to

ensure that the Project Charter is implemented, progress reports are provided, and recommendations are acted upon. Ricky will promote engagement, collaboration, and accountability among the Project Team and Technical Work Teams. He is also accessible and available to each Team and Team Leaders for support, guidance, and direction.

- **Project Teams** –There are three project teams: Single Family Home Permitting; Development Review Improvements - Short Term; and Development Review Improvements – Long Term. Each Project Team will have a team leader and be composed of team members from the Departments of PW, RP, and PDS. The Team Leaders are responsible for leading the team to complete its work program and generating the reports required. The Leaders will also provide status reports to the Executive Team or Ricky on a regular basis.

Team Leaders:

Susan Straus - Single Family Home Permitting

Jim Wasilak - Development Review Improvement, Short Term

Ricky Barker - Development Review Improvement, Long Term

The Team Leader must:

1. Develop and establish effective ground rules and efficient processes to make recommendations/decisions in a timely manner. These ground rules need to include ensuring that opinions and views are heard, and each member remains professional and respectful at all times.
2. Work with the team to develop and submit a work program for completing the required report to the Executive Team.
3. Strive toward consensus on decisions/recommendations; however, he/she should take actions to not significantly delay progress or not delay meeting the agreed-upon schedule. For decisions/recommendations that are not consensus, minority opinions should be noted in the report.

Each Project Team is assigned certain key components of the project (as described below). Each team has the ability to seek help from focus groups or subcommittees (internal/external representatives) to produce recommendations to the project teams. The project teams generate the specific recommended improvements, develop, and in cooperation with the EPM, implement the agreed-upon changes. All key staff who are significantly involved with the development and permitting process will either be on project teams or have the opportunity to provide input to the FAST project. Teams should benchmark with other jurisdictions to adapt what may work in Rockville. Staff from the City Attorney's Office involvement and guidance will be critical to the project's success. Through coordination with the City Attorney, Debra Daniels, and/or her staff's, each Team Leader will need to determine when and how this involvement should occur.

- **Single Family Home Permitting – (Short term and Long Term)** This team will make recommendations to improve the single-family home permitting process (e.g., storm water requirements – two steps to one step, demolition, decks, accessory structures, small construction, and landscaping and forestry requirements). The recommended improvements will include short term (1 year or less) and long term (greater than a year) actions.
- **Development Review Improvement Short Term (Six Months to 1 Year) –** This team involves “quick-fixes” that might require code amendments and some process changes

(e.g., one point of entry for applications, change of use requirements, electronic plan review, fee study).

- **Development Review Improvement Long Term (Longer than 1 Year)** This team will develop recommendations on substantial improvements to processes, and changes that require significant code amendments. This team will not officially start until significant progress has been made with the Short-Term Team since the same staff will be assigned to each team. These recommended improvements also include items that are more complicated and involve much coordination and collaboration with staff from various departments and the City Attorney's Office. This team will also address various technology-related recommendations.

Each Team is charged with developing reports and recommendations to the Executive Team.

These reports must include:

- Purpose
- Challenges/Opportunities
- Identification and Evaluation of Options for Improvements
- Outreach Efforts and Results
- Recommendations
 - Elimination of Non-Value-Added Steps/Work
 - Specific steps/actions, assignments and specific time-frames for completion
 - Changes in procedures and processes

A number of resources will be made available to assist each team (e.g. previous studies, reports, and recent results of customer forums). However, it is important for each team to take a fresh and creative look at the current situation and achieve the best recommendations that will result in Faster, Smarter, and more Transparent processes. These creative recommendations are not limited and should include organizational changes and/or redistribution/reallocation of work and responsibilities of current staff.

3. Community Outreach and Engagement Strategy

In 2017 and 2018, staff held forums to seek information from our external customers on improvements to the development and permitting process. This feedback has been and will continue to be used for formulating recommended improvements.

During the FAST project, information on the project charter, proposed focus areas, and proposed recommendations will be provided/accessible to the public including but not limited to, stakeholders groups, civic and homeowner associations, developers, businesses, and other interested parties. Although customer feedback may be received during the process, public feedback sessions will be scheduled in May 2019 on the development review and permitting process to gain additional insights, feedback, and reactions to staff's recommended changes. Specific/detailed input will be used to ensure the recommended process and code changes address identified problems. The project teams will use this feedback to finalize recommendations prior to reporting the Mayor and Council for their direction.

Attachment A

This proposed charter should be shared with the Planning Commission, other relevant Boards/Commissions, and stakeholder groups.

Staff will develop a communication plan to announce opportunities for engagement and to receive feedback on recommended changes to processes and the City Code. Team Leaders will need to engage staff from the Office of Communication and Engagement during the process to assist in this effort.

4. FAST Schedule

A detailed and realistic schedule will need to be developed to coordinate staff, manage expectations, and be accountable for results. The work of the Single-Family Review and Development Review Short Term Teams will have their recommendations finalized within during the first phase of the FAST project. The Development Review Long Term Team will start following the completion of the work of these two teams. Once the FAST Charter is completed and finalized, each Team will produce a work program and schedule. Overall FAST schedule should be updated after the Mayor and Council have endorsed the recommended process changes of the initial two project teams. Schedules should include milestones for implementing the recommended process and procedure changes.

5. Implementation and Monitoring Plan

The long-term success of this project depends upon the effectiveness of the solutions that are implemented. It will be important to include ways to measure our success to achieve our outcomes (Faster and Smarter), and to determine if additional changes are needed. This evaluation should be based on internal/external evaluations by our customers. Time-periods will be established by the Executive Team for evaluating results and making adjustments as needed.

6. Initial Changes

At its October 29, 2018 work session, the Mayor and Council endorsed initial changes for the project which are described below. The Executive Team and each Project Team will need to develop recommended actions to implement improvements with these areas.

1. **Development Services Center** – The PDS Department is proposing to re-organize staff to create a Development Services Center. This Center will be led by the Planning and Development Services Manager. This position will lead permit clerks, a planning technician, and other professional staff focused on internal and external customer service. This new Customer Service Center is proposed to be a “one stop shop” for Development Review and Permitting Processes (accepts and coordinates all development-related applications). This position will also play a major role in the implementation of Electronic Plan Review and Submittals.
2. **Reliable Schedules for Development-Related Applications** – A consistent theme heard from our November 2017 forum was the length of the review processes, and the uncertainty of processing time. Developing published typical schedules for most all Development-Related Applications will help with the uncertainty of the processes and provide some deadlines for both the staff and applicant.

3. **Development Review Committee (DRC) Improvements** – With staff from different departments involved with DRC, a need to resolve differences and provide clear direction and guidance to our customers is important. An agreed-upon process will be developed and implemented. In addition, procedures for DRC that outline roles and responsibilities will be developed and implemented. These procedures will include defined roles and responsibilities and how decisions are made between competing interest of Departments.
4. **Electronic Plan Review** – Funding has been provided and Staff will develop a work plan and schedule for implementation. This action will save time and costs for the City and the customer.
5. **Notification Requirements** – Staff believes that changes to the current notice requirements should be considered. With the use of electronic notification and social media, staff believes that we may be more effective at notifying the public (beyond state-mandated requirements) through these means rather than mailings.
6. **Clarify When a Site Plan is Required** – Staff recommends that certain “changes of use” may not require a site plan. Notifications to departments about these changes of use could be done through the Building Permit/Occupancy Permit process. This action would significantly reduce the requirements for certain changes of use that do not produce the need for improvements on the site.
7. **Modify Single Family Home Requirements** – Staff recommends going from a two-step application process for stormwater review to a one step application process to shorten the review process. In addition, staff recommends aligning significant tree replacement in the Forestry and Tree Preservation Ordinance with the tree planting requirement for single-family homes in the Zoning Ordinance which requires one tree in the front yard and two trees in the rear yard instead of a more complicated tree planting requirement.
8. **Create an exemption from submitting a Natural Resources Inventory/Forest Stand Delineation (NRI/FSD)** - The current code requires that any Site Plan Amendment requires an approved NRI/FSD plan. Staff proposes to adopt an exemption from submitting an NRI/FSD when the site plan amendment proposes little to no land disturbance or impacts to existing trees.
9. **Exemption from afforestation for parking lot resurfacing projects** - Staff proposes to adopt an exemption from afforestation when there are no changes to the foot print of the parking lot. This would remove the potential disincentive for owners that want to repave their parking lot.

In summary, initial focus on the above items will make a positive impact and provide an improved level of service for our customers.

FAST Phase I Work Plan

	Action Items	Items Completed	Coming Next	Targeted Completion
1. Customer Service Center	1. Development Services Manager (new position) will coordinate development review and Chair the Development Review Committee – SMARTER & TRANSPARENT	Complete - Development Services Manager started on July 1		Completed
	2. Create a one-stop shop for all development-related applications, including new single-family home permits – SMARTER, ACCOUNTABLE & TRANSPARENT	Relocated Forestry staff Reorganized intake staff Created project plan and timeline	Work toward a single point of application acceptance (MGO)	12 months
	3. Receive payments at one-stop shop – FASTER & SMARTER	Created project plan and tasks Acceptance of credit cards	Acceptance of checks	Completed - improving with MGO
	4. Explore establishing a "Customer Bill of Rights" including the right to a second opinion – ACCOUNTABLE & TRANSPARENT	Conference call with model city - San Diego Internal team established Bill of Rights drafted		Completed
	5. Conduct "post-process" surveys and interviews with applicants to evaluate level of service – TRANSPARENT	Surveys focused on problem identification Customer Satisfaction Survey Survey on service during shutdown	Take feedback on impact of FAST initiatives	12 months (ongoing)
	6. Provide regular outreach and educational sessions with customer groups and stakeholders – TRANSPARENT	FAST Communication Plan Open House and Survey	Upcoming stakeholders' session	Completed (Ongoing)
2. Reliable Schedules for Development-Related Applications	1. Establish an application timeline tied to hearing dates – FASTER & TRANSPARENT	Timeline created for site plans	Implement site plan timeline. Expand timeline for other application types following code amendments for streamlined/concurrent processes	6 months (Complete soon after reopening)
	2. Create an intake screening process – SMARTER			12 months or more
	3. Implement DRC coordination meetings to resolve competing priorities – SMARTER	Two new meetings created - DRC Coordination across various departments' staff and DRC Resolution process for direction from Directors on major issues.		Completed
3. Development Review Committee Improvements	1. Update and modify Development Review Processes and Procedures Manual – ACCOUNTABLE & SMARTER	Developed an interdepartmental team to draft and publish formal DRC Guidelines, Roles and Responsibilities	Publish DRC Guidelines, Roles and Responsibilities Update manual to reflect all proposed improvements	12 months or more
	2. Clarify scope of review to ensure the appropriate level of detail for specific types of applications (Project Plan, Special Exception, Site Plan and Amendments, etc.) – ACCOUNTABLE & TRANSPARENT		Develop and present code amendments Include internal review standards in manual for staff	12 months or more
	3. Allow concurrent reviews for certain application types (e.g., Project Plan with Site Plan or Site Plan with Special Exceptions) – FASTER	Options for concurrent reviews identified	Develop and present code amendments	12 months or more
	4. Standardize DRC comment protocol – ACCOUNTABLE & TRANSPARENT	Comment template drafted and in use Routing process streamlined and standardized		Completed

FAST Phase I Work Plan

	Action Items	Items Completed	Coming Next	Targeted Completion
4. Electronic Plan Review	1. Accept electronic plan submissions for applications using an interim solution until the more robust, fully-integrated tools are available through ERP – FASTER & SMARTER	Purchasing larger monitors for all plan reviewers Purchasing Bluebeam licenses and implementing electronic markups - utilize AdobePro immediately Interim digital process for all permits and development projects	Full implementation of MGO	Completed - improving with MGO
	2. Return review comments and drawing mark-ups to applicants electronically – FASTER & SMARTER	Electronic Reviews conducted on all Development Review submissions and returned to applicants electronically. Interim digital process for all permits and development projects	Full implementation of MGO	Completed - improving with MGO
5. Notification Requirements	1. Continue to provide the initial packet of information for public notice on applications while providing clearer information for the post-application area meeting (limiting subsequent mailings to postcards) – SMARTER & TRANSPARENT		Develop and present code amendments	12 months
	2. Allow the applicant to combine several different meetings / hearings into a single notice – SMARTER	All hearing dates that are known at the time of mailing are included		Completed
	3. Advocate and facilitate a more public-focused process by having staff attend all pre-application meetings and having the City host the post-application area meetings, rather than applicants – SMARTER & TRANSPARENT	Staff now attends pre-applications meetings	Revise code to state that staff will host the post-application meetings instead of the applicant	12 months
	4. Utilize social media and the City's website to supplement notice requirements – SMARTER & TRANSPARENT	Developed concepts internally		Completed
6. Clarify When a Site Plan is Required	1. Establish thresholds in determining when a site plan, site plan amendment, and/or certain building permits require formal review – FASTER & SMARTER	Chapter 24 was replaced on July 8, 2019 and Water and Sewer Adequacy Standards were developed	CTR Amendments proposed Work with small group on this and next AI	12 months
	A. Parking (> 5% net increase) B. Traffic Trip Generation (> 10 net vehicle trips) C. Water and Sewer Demand (> 10,000 gpd net increase in average wastewater flow)			
	2. Create a Minor Alterations application type to minimize Site Plan Amendments for changes of use or minimal site improvements such as dumpsters, generators, minor building additions and changes of use that do not trigger other minimal development thresholds – FASTER & SMARTER	Site Plan Amendment application form drafted	Develop and present code amendments	12 months or more
	3. Establish clear criteria for the thresholds of Level 1 and Level 2 Site Plans and Project Plan reviews to streamline processing certain Site Plan and Project Plan submittals – FASTER & SMARTER	Preliminary thresholds identified.	Develop and present code amendments	12 months or more

FAST Phase I Work Plan

	Action Items	Items Completed	Coming Next	Targeted Completion
7. Modify Single-Family Home Requirements	1. Conduct the entire stormwater management review in one step at the construction plan phase – FASTER	Chapter 19 amended on May 13, 2019 to eliminate SWM Concept		Completed
	2. Continue to encourage the protection of trees on lots and replace the Natural Resource Inventory and Forest Stand Delineation requirements with simplified Single-Family Home Tree Survey if confirmed as needed by city staff – FASTER & SMARTER		Develop and present code amendments	12 months or more
	3. While encouraging the retention of existing trees, require a minimum of three trees per lot for all new detached single-family homes, both on vacant lots and teardown/rebuilds – FASTER & SMARTER		Develop and present code amendments	12 months or more
	4. Develop and publish guidance documents – FASTER, ACCOUNTABLE, SMARTER & TRANSPARENT	Compile existing documents	Update existing documents Draft new documents	12 months
	5. Create consistent review timeframes for approvals (HDC, SWM, etc.) – ACCOUNTABLE & FASTER	Timeframes identified	Implement and track reviews (MGO) Update based on process changes	6 months (on-going)
	6. Streamline and simplify the review process for demolition permits (When specific permits go to the Historic District Commission) – SMARTER		Develop and present code amendments	12 months
	7. Simplify bond/ as-built release process – FASTER & SMARTER	Prepared draft Chapter 19 Code Amendment		Completed
	8. Require applicants to post notification sign on property upon application for a single-family home – TRANSPARENT	Developed Sign Requirement for the sign adopted by Chapter 5 - 9/9/19		Completed
8. Create an Exemption from Submitting a Natural Resources Inventory / Forest Stand Delineation	1. For minor alterations, an NRI/FSD shall not be required – FASTER & SMARTER		Develop and present code amendments	12 months or more
	2. For Site Plans and Site Plan Amendments, establish independent requirements for when an NRI/FSD is required – FASTER & SMARTER		Develop and present code amendments	12 months or more
9. Exemption from Afforestation for Parking Lot Resurfacing	1. Provide exemption from afforestation for parking lot resurfacing projects while protecting trees – FASTER & SMARTER	Developed interdepartmental recommendation for an exemption of parking lot maintenance from stormwater management and afforestation requirements.	Ordinance to amend Chapters 10.5 and 19 to create exemptions and simplify process.	12 months

FAST Phase I Work Plan

Action Items		Items Completed	Coming Next	Targeted Completion
10. (Additional Items) Revisions to Comprehensive Transportation Review (CTR)	1. Revise requirements of the CTR to define the scope of review based on the increase of net vehicle trips – FASTER & SMARTER A. No transportation review for uses that generate less than 10 peak-hour vehicle trips unless there is an alteration for site access or on-site circulation	Amend CTR to reflect recommendations		6 months (on-going)
	B. Uses that generate 10 to 49 peak-hour vehicle trips: A lesser Transportation Report required that contains introduction and proposed transportation features on site			
	C. Uses that generate 50 or more peak-hour trips: Complete Transportation Report per CTR requirements			
11. (Additional Items) Forest and Tree Preservation Ordinance (FTPO) Clarifications	1. Deduct the area of right-of-way dedicated to the city from the total tract area to adjust Minimum Tree Cover requirements – SMARTER		Develop and present code amendments	12 months
	2. Develop FTPO guidelines to expand fee-in-lieu option and to count trees within appropriately sized planter boxes located on top of structures with the goal of aligning the FTPO with development standards in mixed-use and industrial zones – SMARTER & TRANSPARENT		Develop and present code amendments	12 months
	3. Explore a reduction in the number of trees required per residential lot in the subdivision process based on the viability of trees with urban-type townhome units – SMARTER	Drafted Text Amendment	In process	12 months



MAYOR AND COUNCIL Meeting Date: January 12, 2026

Agenda Item Type: MOCK AGENDAS

Department: CITY CLERK/DIRECTOR OF COUNCIL OPERATIONS OFFICE

Responsible Staff: SARA TAYLOR-FERRELL

Subject

Mock Agenda

Recommendation

Staff recommends the Mayor and Council review and provide comments.

Attachments

February 2, 2026 (Mock)



MAYOR AND COUNCIL

Meeting No. 03-26
Monday, February 2, 2026 - 5:30 PM

MOCK AGENDA

Agenda item times are estimates only. Items may be considered at times other than those indicated.

Ways to Participate

If you require a reasonable accommodation, for community forum or a public hearing and need reasonable accommodations, please contact the City Clerk's Office by the Wednesday before the Monday meeting at 240-314-8280 or cityclerk@rockvillemd.gov or by filling this form: <https://www.rockvillemd.gov/services/request-a-reasonable-accommodation/>

Translation Assistance

If you wish to participate in person at a Mayor and Council meeting during community forum or a public hearing and may need translation assistance in a language other than English, please contact the City Clerk's Office by the Wednesday before the Monday meeting at 240-314-8280, or cityclerk@rockvillemd.gov, or by using this form: <https://www.rockvillemd.gov/services/participate-in-a-community-forum/>

In-Person Attendance

Community members attending in-person who wish to speak during Community Forum, or a Public Hearing, should sign up using the form at the entrance to the Mayor and Council Chamber. In-person speakers will be called upon in the order they are signed to speak and before virtual speakers.

Note: In-Person Speakers will be called upon to speak before those who have signed up to speak virtually for Community Forum and Public Hearings.

Viewing Mayor and Council Meetings

The Mayor and Council are conducting hybrid meetings. The virtual meetings can be viewed on Rockville 11, Comcast, Verizon cable channel 11, livestreamed at www.rockvillemd.gov/rockville11, and available a day after each meeting at www.rockvillemd.gov/videoondemand.

Participating in Community Forum & Public Hearings:

If you wish to submit comments in writing for Community Forum or Public Hearings:

- Please email the comments to mayorandcouncil@rockvillemd.gov no later than 10:00 am on the date of the meeting.

If you wish to participate in-person or virtually in Community Forum or Public Hearings during the live Mayor and Council meeting:

1. Send your Name, Phone number, For Community Forum and Expected Method of Joining the Meeting (computer or phone) to mayorandcouncil@rockvillemd.gov or <https://www.rockvillemd.gov/services/participate-in-a-community-forum/> no later than 10:00 am on the day of the meeting. Each speaker will receive 3 minutes.
2. Send your Name, Phone number, the Public Hearing Topic and Expected Method of Joining the Meeting (computer or phone) to mayorandcouncil@rockvillemd.gov or <https://www.rockvillemd.gov/services/participate-in-a-public-hearing/> no later than 10:00 am on the day of the meeting.
3. On the day of the meeting, you will receive a confirmation email with further details, and two Webex invitations: 1) Optional Webex Orientation Question and Answer Session and 2) Mayor & Council Meeting Invitation.
4. Plan to join the meeting no later than approximately 20 minutes before the actual meeting start time.
5. Read for <https://www.rockvillemd.gov/DocumentCenter/View/38725/Public-Meetings-on-Webex> meeting tips and instructions on joining a Webex meeting (either by computer or phone).
6. If joining by computer, Conduct a WebEx test: <https://www.webex.com/test-meeting.html> prior to signing up to join the meeting to ensure your equipment will work as expected.

Participating in Mayor and Council Drop-In (Mayor Ashton and Councilmember Van Grack)

The next scheduled Drop-In Session will be held by phone or in-person on Monday, February 9 from 5:15-6:15 pm with Mayor Ashton and Councilmember Van Grack. Please sign up by 10 am on the meeting day using the form at: <https://www.rockvillemd.gov/formcenter/city-clerk-11/sign-up-for-dropin-meetings-227>

1. Convene - 5:30 PM

2. Pledge of Allegiance

3. Proclamation and Recognition - 5:35 PM

- A. Proclamation Declaring Lunar New Year 2026
- B. Proclamation Declaring February 2026, as Heart Month in Rockville, Maryland
- C. Proclamation Declaring February 2026, as African American History Month in Rockville, Maryland
- D. Proclamation Declaring February 28, 2026, as Rare Disease Day in Rockville, Maryland

4. Agenda Review - 6:30 PM

5. City Manager's Report - 6:35 PM

6. **Boards and Commissions Appointments and Reappointments - NONE**
7. **Community Forum - 6:40 PM**
8. **Special Presentations - NONE**
9. **Consent Agenda - 7:00 PM**
10. **Public Hearing - NONE**
11. **Action Items - 7:05 PM**
 - A. Adoption of an Ordinance to Amend Chapter 5 of the Rockville City Code Entitled "Buildings and Building Regulations," Article XIV (Green Building Code Regulations)
12. **Worksession - NONE**
13. **Mock Agenda - 8:05 PM**
14. **Old / New Business - 8:10 PM**
15. **Adjournment - 8:15 PM**