

FOREST CONSERVATION ORDINANCE



**SOMERSET COUNTY,
MARYLAND**

FOREST CONSERVATION ORDINANCE OF SOMERSET COUNTY

The original Somerset County Forest Conservation Ordinance was intended for the purpose of prohibiting certain development projects from cutting or clearing certain forests within Somerset County unless a forest stand delineation and a forest conservation plan were/are in effect. The same was amended/revised December 29, 1998 by Ordinance No. 704 and on November 26, 2002 by Ordinance No. 807. This Ordinance No. 1029 amends the Forest Conservation Ordinance by adding provisions altering the Forest Conservation Exemption, the Intrafamily Transfer and certain Forest Conservation Fees.

Ordinance #1029

Adopted by the Somerset County Board
of County Commissioners on July 5, 2011

Includes Amendments:

Ordinance #1099 effective November 17, 2015

SOMERSET COUNTY
FOREST CONSERVATION ORDINANCE

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Article I. General Provisions

1.1 Title

This subtitle shall be known and may be cited as the Somerset County Forest Conservation Ordinance.

1.2 General

The purpose of this ordinance is to protect and enhance the existing natural resources in Somerset County, specifically to prohibit certain development disturbances to occur before a forest stand delineation and forest conservation plan have been prepared and approved.

The Board of County Commissioners has determined that to meet the requirements of Natural Resources Article, §§5-1601--5-1612, Annotated Code of Maryland, the provisions of this ordinance must be enacted.

1.3 Legislative Authority

These regulations receive their authority from Natural Resources Article Section 5-1601 5-1612, Annotated Code of Maryland and COMAR 08.19.01-08.19.06.

Whenever any provision of this ordinance refers to or cites a section of relevant local, state or federal law and that section is later amended or superseded, this ordinance shall be deemed amended to refer to the amended section of the section that most nearly corresponds to the superseded section.

1.4 Jurisdiction

This ordinance shall apply to all lands and properties in Somerset County which are outside the Chesapeake Bay Critical Area as established by the Somerset County Zoning Maps as amended, but not including lands and properties lying within the zoning jurisdiction of the incorporated municipalities of Somerset County.

1.5 Severability

It is hereby declared to be the intention of the Board of County Commissioners of Somerset County that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any such section, paragraph, sentence, clause or phrase is declared unconstitutional, or otherwise invalid by any court of competent jurisdiction in a

valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this ordinance since the same would have been enacted without incorporation into this ordinance of such unconstitutional or invalid section, paragraph, sentence, clause or phrase.

1.6 Conflict with other Regulations

Whenever any provision of this ordinance conflicts with any other provision of law, whether set forth in this ordinance, or contained in any law, rule, regulation, ordinance, deed restriction or covenant covering any of the same subject matter, that provision which is more restrictive or imposes the higher standard or requirement shall govern.

1.7 Repeal of Conflicting Ordinance

All prior ordinances or parts of such ordinance, codes or parts of codes in conflict with the provisions of this ordinance are hereby repealed.

1.8 Relationship to the Comprehensive Plan and Forest Conservation Program

It is the intention of the Board of County Commissioners that this ordinance implement the policies and recommendations adopted by the Board of Commissioners for the County, as reflected in the 1991 Comprehensive Plan, the Somerset County Forest Conservation Program, and other planning documents. The Planning Commission and Planning Director shall take into consideration the goals and policies of the Comprehensive Plan and the Forest Conservation Program in their review process under this ordinance.

Article II Definitions

2.1 Interpretations

For the purposes of this ordinance, certain terms or words used herein shall have the following interpretations. The word person includes a firm, association, organization, partnership, trust, company or corporation as well as an individual. Words used in the present tense include the future, words in the singular number include the plural and words in the plural number include the singular unless the natural construction of the wording indicates otherwise. The word shall is mandatory and the word may is permissive.

2.2 Modification

Changes in the following terms or amendments to this ordinance shall not be made without the prior approval of the Maryland Department of Natural Resources, which shall have 45 days to review and comment upon said changes or all such changes shall be construed to be acceptable.

2.3 Terms Defined: In this ordinance the following terms have the meanings indicated.

2.3.1 “Afforestation” means:

- A. Establishment of a forest on an area from which forest cover is absent; or
- B. Establishment of a forest according to procedures set forth in the Somerset County Forest Conservation Technical Manual.

2.3.2 “**Agricultural activity**” means farming activities including plowing, tillage, cropping, installation of best management practices, seeding, cultivating, and harvesting for production of food and fiber products (except commercial logging and timber harvesting operations), the grazing and raising of livestock, aquaculture, sod production, orchards, nursery, and other products cultivated as part of a recognized commercial enterprise. Agricultural activities include the construction, improvements, or maintenance of any and all associated buildings, structures, or other permanent fixtures ordinarily used in commercial agricultural production.

2.3.3 “**Applicant**” means a person who is applying for subdivision, site plan or project plan approval or a grading or sediment control permit, or who has received approval of a forest stand delineation or forest conservation plan.

- 2.3.4 “**Approved forest management plan**” means a document:
- A. Approved by the Department of Natural Resources forester assigned to the county in which the property is located; and
 - B. Which operates as a protective agreement for forest conservation as described in the Natural Resources Article, §5-1607(e)-(f), Annotated Code of Maryland.
- 2.3.5 “**Caliper**” means the diameter measured at 2 inches above the root collar.
- 2.3.6 “**Champion tree**” means the largest tree of its species within the United States, the State, county, or municipality;
- 2.3.7 “**Champion tree of the State**” means a tree which appears in the State Forest Conservation Manual list of State champion trees.
- 2.3.8 “**Cluster development**” means a development in which disturbance is concentrated in selected areas of the site so as to provide on at least 20% of the remainder to permanently dedicated natural habitats and preserve natural features or other open space uses.
- 2.3.9 “**Commercial and industrial uses**” means manufacturing operations, office complexes, shopping centers, and other similar uses and their associated storage areas, yarding, and parking areas, and corresponds to Somerset County Zoning Classifications Neighborhood Commercial C-1, Highway Commercial C-2, General Commercial C-3, Light Industrial I-1, General Industrial I-2, Airport AP, and Maritime Residential Commercial MRC.
- 2.3.10 “**Commercial logging or timber harvesting operations**” means the cutting and removing of tree stems from a site for commercial purposes, leaving the root mass intact.
- 2.3.11 “**Critical habitat for endangered species**” means a habitat occupied by an endangered species as determined or listed under Natural Resources Article §§4-2A-04 and 10-2A-06, Annotated Code of Maryland.
- 2.3.12 “**Critical habitat area**” means a critical habitat for an endangered species and its surrounding protection area. A critical habitat area shall:
- A. Be likely to contribute to the long-term survival of the species;

- B. Be likely to be occupied by the species for the foreseeable future; and
 - C. Constitute habitat of the species which is considered critical under Natural Resources Article, §§4-2A-04 and 10-2A-06, Annotated Code of Maryland.
- 2.3.13 “**Declaration of Intent**” means:
- A. A signed and notarized statement by a landowner or the landowner's agent certifying that the activity on the landowner's property:
 - (1) Is for certain activities exempted under this ordinance;
 - (2) Does not circumvent the requirements of this ordinance; and
 - (3) Does not conflict with the purposes of any other declaration of intent.
- 2.3.14 “**Department**” means the Somerset County Technical and Community Services, Planning and Zoning Division.
- 2.3.15 “**Development Project**” means any project requiring a grading permit, sediment and erosion control plan, or subdivision.
- 2.3.16 “**Development project completion**” means for the purposes of implementing afforestation and reforestation requirements, or completing payment into a fund:
- A. The release of the development bond, if required;
 - B. Acceptance of the project's streets, utilities, and public services by the Department; or
 - C. Designation by the Department that a:
 - (1) Development project has been completed, or
 - (2) Particular stage of a staged development project has been completed.
- 2.3.17 **Forest**
- A. “**Forest**” means a biological community dominated by trees and other woody plants covering a land area of 40,000 square feet or greater.
 - B. “**Forest**” includes:

- (1) Areas that have at least 100 live trees per acre with at least 50 percent of those trees having a 2-inch or greater diameter at 4.5 feet above the ground and larger; and
- (2) Areas that have been cut but not cleared.

C. “**Forest**” does not include orchards.

- 2.3.18 “**Forest Conservancy District Board**” means the Somerset Forest Conservancy District Board, which was created under Natural Resources Article, §§5-601--5-610, Annotated Code of Maryland.
- 2.3.19 “**Forest conservation**” means the retention of existing forest or the creation of new forest at the levels set by this ordinance pursuant to Natural Resource Article 5-1601--5-1612.
- 2.3.20 “**Forest Conservation and Management Agreement**” means an agreement as stated in the Tax-Property Article, §8-211, Annotated Code of Maryland.
- 2.3.21 “**Forest Conservation Technical Manual**” means the technical manual referred to as the Somerset County Forest Conservation Technical Manual, used to establish standards of performance required in preparing forest stand delineations and forest conservation plans.
- 2.3.22 “**Forest conservation plan**” means a plan prepared pursuant to Natural Resources Article, §§5-1606 and 5-1607, Annotated Code of Maryland.
- 2.3.23 “**Forest cover**” means the area of a site which contains forest as defined herein.
- 2.3.24 “**Forest management plan**” means a plan establishing best conservation and management practices for a land owner in assessment of the resource values of forested property.
- 2.3.25 “**Forest Mitigation Banking**” is the practice by which an applicant who is required to mitigate actions on a parcel of land can transfer this requirement from his own land to that of another individual whose property is approved for that purpose.
- 2.3.26 “**Forest stand delineation**” means the methodology for evaluating the existing vegetation on a site proposed for development, as provided in the Somerset County Forest Conservation Technical Manual.

- 2.3.27 “**Growing season**” means the period of consecutive frost-free days as stated in the current soil survey for this county published by the National Cooperative Soil Survey Program, 16 U.S.C. §590 (a)--(f).
- 2.3.28 “**Immediate family**” means owner and child of owner.
- 2.3.29 “**Institutional development area**” means schools, colleges and universities, military installations, transportation facilities, utility and sewer projects, government offices and facilities, golf courses, recreation areas, parks, cemeteries and others as allowed by Somerset County Zoning Ordinance.
- 2.3.30 “**Intermittent stream**” means a stream in which surface water is absent during a part of the year as shown on the most recent 7.5 minute topographic quadrangle published by the United States Geologic Survey, or as confirmed by field verification and the discretion of the Department.
- 2.3.31 “**Landscaping plan**” means a plan:
- A. Drawn to scale, showing dimensions and details for reforesting an area at least 35 feet wide and covering 2,500 square feet or greater in size;
 - B. Using native or indigenous plants when appropriate; and
 - C. Which is made part of an approved forest conservation plan
- 2.3.32 “**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. Such projects may traverse fee simple properties through defined boundaries or through easement rights.
- 2.3.33 “**Local agency**” means each unit in the executive, legislative or judicial branch of a county or municipal government.
- 2.3.34 “**Lot**” means a unit of land, the boundaries of which have been established by metes and bounds by result of a deed filed prior to subdivision regulations or previous subdivision of a larger parcel.
- 2.3.35 “**Maintenance agreement**” means the short-term management agreement associated with afforestation or reforestation plans required under Natural Resources Article, §5-1605, Annotated Code of Maryland and this ordinance.

2.3.36 “**Minor development project**” means the division of a single lot, tract or parcel of land into five (5) or fewer lots for the purpose, whether immediate or future, of transfer of ownership or of building development.

2.3.37 “**Natural regeneration**” means the natural establishment of trees and other vegetation with at least 400 woody, free-to-grow seedlings per acre, which are capable of reaching a height of at least 20 feet at maturity.

2.3.38 “**Net tract area**” means:

- A. Except in residual agriculture and resource areas of twenty (20) acres or more, the total area of a site, including both forested and nonforested areas, to the nearest 1/10 acre; and
- B. In agriculture and resource areas, the part of the total tract for which land use will be changed or will no longer be used for primarily agricultural activities.

2.3.39 **Nontidal Wetlands**

A. “**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 *Corps of Engineers 1987 Wetland Delineation*, and as may be amended and interpreted by the U.S. Environmental Protection Agency or other appropriate regulatory authority.

B. “**Nontidal wetlands**” does not include tidal wetlands regulated under Natural Resources Article, Title 9, Annotated Code of Maryland.

2.3.40 “**Offsite**” means outside of the limits of the area encompassed by the tract.

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

2.3.42 “**100-year flood**” means a flood which has a one (1) percent chance of being equaled

or exceeded in any given year. Except for Class III waters (natural trout streams), a body of water with a watershed less than 400 acres is excluded.

2.3.43 “**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, or a 100-year flood. For the purposes of this ordinance, boundaries of the 100-year floodplain coincide with those identified on the Flood Insurance Rate Map (FIRM) most recently published by the Federal Emergency Management Agency (FEMA).

2.3.44 “**Perennial stream**” means a stream containing surface water throughout an average rainfall year, as shown on the most recent 7.5 minute topographic quadrangle published by the United States Geologic Survey, as confirmed by field verification and at the discretion of the Department.

2.3.45 “**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.

2.3.46 “**Project Plan**” means a construction, grading or sediment control activity on an area of 40,000 square feet or greater by a local agency.

2.3.47 “**Public utility**” means any:

- A. Transmission line or electric generating station; or
- B. Water, sewer, electric, gas, telephone, or television cable service line.

2.3.48 “**Reforestation**”

A. “**Reforestation**” or “**reforested**” means the:

- (i) 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 2-inch or greater diameter measured at 4.5 feet above the ground, within 7 years; or
- (ii) Establishment of a forest according to procedures set forth in the Somerset County Forest Conservation Technical Manual.

- B. “**Reforestation**” or “**reforested**” includes landscaping of areas under an approved landscaping plan establishing a forest at least 35 feet wide and covering 2500 square feet or more of area.
- C. “**Reforestation**” for a Linear Project which involves overhead transmission lines may consist of a biological community of trees and woody shrubs with no minimum height or diameter criteria.

2.3.49 “**Regulated activity**” means any of the following activities, when that activity occurs on a unit of land which is 40,000 square feet or greater:

- A. Subdivision;
- B. Grading or any other activity that requires a sediment control plan; or
- C. Project plan of a local agency.

2.3.50 “**Retention**” means the deliberate holding and protecting of existing trees, shrubs or plants on the site according to established standards as provided in the Somerset County Forest Conservation Technical Manual.

2.3.51 “**Sediment control plan**” means an erosion and sediment control strategy or plan, to minimize erosion and prevent off-site sedimentation, by containing sediment on-site or passing sediment laden runoff through a sediment control measure prepared and approved in accordance with the specific requirements of the Somerset County Soil Conservation District and designed in accordance with the handbook, ‘1991 Maryland Standards and Specifications for Soil Erosion and Sediment Control.’

2.3.52 “**Seedlings**” means an unbranched woody plant, less than 24 inches in height and having a diameter of less than 1/2 inch measured at 2 inches above the root collar.

2.3.53 “**Selective clearing**” means the careful and planned removal of trees, shrubs, and plants using specific standards and protection measures under an approved forest conservation plan.

2.3.54 “**Stream buffer**” means all lands laying within 50 feet, measured from the top of each normal bank of a perennial or intermittent stream.

2.3.55 “**Subdivision**” means any division of a unit of land into 2 or more lots or parcels for

the purpose, whether immediate or future, of transfer of ownership, sale, lease, or development.

2.3.56 Timber Harvesting.

- A. “**Timber harvesting**,” means a tree cutting operation affecting one (1) or more acres of forest or develop woodland within a one (1) - year interval that disturbs 5,000 square feet or more of forest floor.
- B. “**Timber harvesting**” does not include grubbing and clearing of root mass.

2.3.57 “**Tract**” means property or unit of land subject to an application for a grading or sediment and erosion control plan, subdivision approval, project plan approval, or areas subject to this subtitle. A tract may include more than one parcel.

2.3.58 “**Tree**” means a large, branched woody plant having one or several self-supporting stems or trunks that reach a height of at least 20 feet at maturity.

2.3.59 Variance.

- A. “**Variance**” means relief from this ordinance as enumerated in Section 18.1 herein.
- B. “**Variance**” does not mean a zoning variance.

2.3.60 “**Watershed**” means all land lying within an area described as a sub-basin in water quality regulations adopted by the Department of the Environment under COMAR 26.08.02.08.

2.3.61 “**Whip**” means an unbranched woody plant greater than 24 inches in height and having a diameter of less than one (1) inch measured at two (2) inches above the root collar.

Article III. Application

3.1 Except as provided in Section 3.2 of this article, this ordinance applies to:

- A. Site plan review, subdivision, project plan, grading, or sediment control approval on an area of land 40,000 square feet or greater after the effective date of this ordinance.
- B. A public utility not exempt under Section 3.2 (D), (E), and (G) of this article.
- C. Any unit of Somerset County government making an application for a site plan review, project plan, grading, or sediment control approval on an area of land 40,000 square feet or greater.

3.2 This ordinance does not apply to:

- A. Agricultural activities not resulting in a change in land use category, including agricultural support buildings and other related structures built using accepted best management practices, except that a person engaging in an agricultural activity clearing 40,000 square feet or greater of forest within a one (1) -year period, may not receive an agricultural exemption, unless the person files a declaration of intent as provided for in Section 3.3 of this article which includes:
 - (1) A statement that the landowner or landowner's agent will practice agriculture on that portion of the property for 5 years from the date of the declaration; and
 - (2) A sketch map of the property which shows the area to be cleared.
- B. An activity conducted on an existing nonagricultural single lot of any size, if not otherwise exempted by this ordinance, if the activity:
 - (1) Does not result in a non-residential structure with a footprint of more than 10,000 square feet;
 - (2) Does not result in the cumulative cutting, clearing, or grading of more than 20,000 square feet of forest;
 - (3) Does not result in the cutting, clearing, or grading of a forest that is subject to the requirements of a previous forest conservation plan approved under this ordinance; and

- (4) Is the subject of a declaration of intent filed with the Department, as provided for in Section 3.3 of this article, stating that the lot will not be the subject of a regulated activity within five (5) years of the cutting, clearing, or grading of forest.
- C. A regulated activity required for the purpose of constructing a dwelling house intended for the occupancy of the owner or the immediate family of the owner, if the activity:
- (1) Does not result in the cutting, clearing, or grading of more than 20,000 square feet of forest; and,
 - (2) Is the subject of a declaration of intent filed with the Department, as provided for in Section 3.3 this article, which states that transfer of ownership may result in a loss of exemption.
- D. Linear projects not regulated under Article 78, §§54A and 54B or §54-I, Annotated Code of Maryland, if the activity:
- (1) Does not result in the cumulative clearing of more than 20,000 square feet of forest; and,
 - (2) Does not cut or clear forests subject to a Forest Conservation Plan as enumerated herein; and,
 - (3) Is the subject of a declaration of intent as provided for in Section 3.3 of this ordinance.
- E. Routine maintenance or emergency repairs of public utility rights-of-way.
- F. Any residual area(s) resulting from the subdivision of a larger tract, subject to the following provisions:
- (1) the residual area(s) are at least 20 acres in total cumulative area; and,
 - (2) the residual area(s) shall remain in current land use; and,
 - (3) a declaration of intent is filed with the Department, as provided for in Section 3.3 of this article, which states that the residual area(s) created shall not be the subject of a regulated activity within five (5) years of the recording of the final plat.

- G. The construction and maintenance of water and sewage treatment facilities and County landfills by a State, County, or municipal governmental body, provided that the cutting or clearing of the forest is conducted to minimize the loss of forest and all forested area cleared over forty thousand (40,000) square feet in area shall be replaced at a ratio of one (1) acre planted for each one (1) acre cleared.
- H. Highway construction activities under Natural Resources Article, §5-103, Annotated Code of Maryland.
- I. All projects or activities located within the Crisfield Airport Zone (AP) and the cutting or clearing of trees to comply with the requirements of 14 C.F.R. S.77.25 relating to objects affecting navigable airspace, provided that the Federal Aviation Administration has determined that the trees are a hazard to aviation.
- J. Mining activities regulated under Natural Resources Article, Title 7, Subtitle 5, 5A, or 6a, Annotated Code of Maryland.
- K. The rehabilitation or re-installation of private individual septic systems for residential dwellings built prior to the effective date of this ordinance.
- L. Cutting of trees in swaths not to exceed 10 feet in width for surveying purposes or to re-establish boundary lines.
- M. A preliminary site plan or a grading or sediment control plan approved before July 1, 1991.
- N. The combination or re-combination of portions of previously platted lots where the total number of lots is not increased.
- O. A boundary line adjustment or exchange of land between adjacent landowners.
- P. A real estate transfer to provide a security, leasehold, or other legal or equitable interest, including a transfer of title of a portion of a lot or parcel in which there is no change in use and no cumulative cutting, clearing, or grading of more than 40,000 square feet of forest. Alteration beyond those specified requires forest conservation review and may result in loss of existing exemption status or a declaration in intent for an additional exempt activity.
- Q. A subdivision for agricultural purposes only, where the statement “For Agricultural Purposes Only” appears on the plat.

- R. Commercial logging and subsequent forest management operations, including, but not limited to, shearing, bedding, piling, windrowing, burning, precommercial thinning, construction or maintenance of timber haul roads, and construction or maintenance of ditches. This exemption includes harvesting conducted subject to the forest conservation and management program under Tax-Property Article, §8-211, Annotated Code of Maryland, that are completed before July 1, 1991.
- S. Areas governed by the Chesapeake Bay Critical Area Protection Law, Natural Resources Article, §§8-1801--8-1816, Annotated Code of Maryland, and mapped as Chesapeake Bay Critical Area by the Somerset County Zoning Maps; or areas partially within the Critical Area as described within Article XII of this Ordinance.
- T. Any subdivision for the purposes of creating new lots or easements for conservation purposes where a legitimate conservation organization is deeded any resulting new lot or named in any resulting conservation easement.
- U. Minor developments which meet the requirements of Section 8.1 herein are exempt from the requirements for Forest Conservation Plan submittals.
- V. Cluster developments which meet the requirements of Section 8.2 herein are exempt from the requirements for Forest Conservation Plan submittals.
- W. A parcel that was previously developed and is covered by impervious surface at the time of application for subdivision plat, site plan, grading, or sediment control permit approval.

3.3 Declaration of Intent.

- A. The purpose of the declaration of intent is to verify that the proposed activity is exempt under this ordinance as enumerated herein.
- B. A person seeking an exemption under Section 3.2 A, B, C, D, F, and P of this ordinance shall file a declaration of intent with the Department and any intra-family transfer shall bear the name of the recipient. In addition, any plat filed on the basis of a Declaration must include a statement naming the regulated activity covered by the Declaration.
- C. The declaration of intent is effective for five (5) years.

- D. The existence of a declaration of intent does not preclude another exempted activity on the property subject to a declaration of intent, if the activity:
- (1) Does not conflict with the purpose of any existing declaration of intent, and
 - (2) Complies with the applicable requirements for an exempted activity.
- E. If a regulated activity on the area covered by the declaration of intent occurs within 5 years of the effective date of the declaration of intent,
- (1) There shall be an immediate loss of exemption, or
 - (2) There may be a noncompliance action taken by the Department, as appropriate, under this ordinance.
- F. An applicant may apply for a regulated activity on that area of the property not covered under the declaration of intent if the requirements of this ordinance are satisfied.
- G. The Department may require a person failing to file a declaration of intent or found in noncompliance with a declaration of intent at the discrimination of the Department, to do one or more of the following:
- (1) Meet the retention, afforestation and reforestation requirements established in this ordinance;
 - (2) Pay a noncompliance fee of \$0.30 per square foot, which is \$13,068.00 per acre of forest cleared under the declaration of intent;
 - (3) Be subject to other enforcement actions appropriate under Natural Resources Article, §§5-1601--5-1612, Annotated Code of Maryland and this ordinance; or
 - (4) Comply with a stop work order until a Declaration of Intent is filed with the Department.
- H. In its determination of appropriate enforcement action, the Department may consider whether failure to file a declaration of intent by a person required to file is a knowing violation of this ordinance.

Article IV. General Requirements

4.1 A person making application after the effective date of this ordinance for site plan review, subdivision or project plan approval, a grading or sediment control permit for an area of land of 40,000 square feet or greater shall, unless specifically exempted under Section 3.2:

- A. File a Declaration of Intent as provided under Section 3.3, or,
- B. Submit to the Department a forest stand delineation and a forest conservation plan for the lot or parcel on which the development is located; and use methods as provided in the Somerset County Forest Conservation Technical Manual, to protect retained forests and trees during construction.

4.2 If a local agency or person using state funds makes application to conduct a regulated activity, the following applies:

- A. The site plan, project plan or application for grading or sediment control permit or other construction plan shall be submitted to the Office of Technical and Community Services, Planning and Zoning Division, which shall notify the Maryland Department of Natural Resources within 15 days of receipt of the completed site plan, project plan or application.
- B. Within 15 days of receipt of notice from the local authority, the Department of Natural Resources shall:
 - (1) Determine whether the project has impact on significant forest resources; and
 - (2) Notify the Department whether the project shall be subject to the State program.
- C. If the Department of Natural Resources determines that the project is subject to the State program, the:
 - (1) Time limit for approval of the forest stand delineation and forest conservation plan shall begin when the Department of Natural Resources receives the necessary documents from the applicant or the Department, and
 - (2) The Department may not approve a site plan, subdivision plan or project plan, or issue the grading or sediment control permit until it receives notice from the Department of Natural Resources that the standards and requirements of the State

program have been satisfied.

- D. If the Department of Natural Resources determines the project need not be reviewed under the State program, the time limit for approval of the forest stand delineation and forest conservation plan under this ordinance begins when such notice is received from the Department of Natural Resources.

Article V. Forest Stand Delineation

5.1 Criteria.

- A. A forest stand delineation shall be submitted prior to approval of a site plan, a pre-application sketch plan or preliminary plat, or a grading or sediment control application for the area being developed. The applicant may submit a forest stand delineation for Department review before or after submitting any other required development plans, but his application for development shall not be approved until the forest stand delineation is approved.

- B. The delineation shall be prepared by a licensed forester, licensed landscape architect, or a qualified professional who meets the requirements stated in Section 19.2.

- C. The delineation shall be used during the earliest stages of review to determine the most suitable and practical areas for forest conservation and shall contain the following components:
 - (1) Forest stand maps indicating species, location, number, and size of trees and showing dominant and co-dominant forest types;

 - (2) A soils map delineating all soils;

 - (3) A topographic map delineating intermittent and perennial streams or ditches, ponds, wetlands, 100-year floodplains, and associated buffers; the Chesapeake Bay Critical Area~ and steep slopes over 25 percent. A 7.5-minute U.S.G.S. topographic quadrangle map is acceptable at the discretion of the Department.

 - (4) Planned limits of disturbance, if known;

 - (5) Land use of adjacent properties;

 - (6) Habitat areas occupied or utilized by rare, threatened, or endangered species as identified by the Maryland Natural Heritage Program;

 - (7) Cultural features (e.g. cemeteries, historic sites, etc.);

 - (8) Trees having a diameter measured at 4.5 feet above ground of:
 - (a) 30 inches or more; or,

- (b) 75% or more of the State Champion Tree of that species as designated by the Maryland Department of Natural Resources.
 - (c) State Champion Trees as designated by the Department of Natural Resources.
- (9) Information required by the Somerset County Forest Conservation Technical Manual.

D. Approval of Forest Stand Delineations.

- (1) An approved forest stand delineation may remain in effect for a period not longer than five (5) years.
- (2) Within 30 calendar days after receipt of the forest stand delineation, the Department shall notify the applicant whether the forest stand delineation is complete and correct.
- (3) If the Department fails to notify the applicant within 30 days, the delineation shall be treated as complete and correct.
- (4) The Department may require further information or provide for an additional 15 calendar days under extenuating circumstances.

Article VI. Simplified Forest Stand Delineations

6.1. Applicability.

A. A simplified Forest Stand Delineation may be submitted for any project meeting any of the following criteria:

- (1) A minor development project provided that any areas cleared are not protected by a Forest Conservation Plan or other protective device and that all retained forest is placed under a long term protective agreement; or,
- (2) Cluster development; or,
- (3) When no forest exists on-site as defined in 2.3.17 herein; or,
- (4) When it can be demonstrated that no afforestation or reforestation shall be required as determined by Articles 9 and 10 herein.

6.2. Preparation.

A simplified Forest Stand Delineation shall be prepared by a licensed forester, licensed landscape architect, licensed surveyor, or other qualified professional.

6.3. Submittal.

A. A simplified Forest Stand Delineation shall be submitted prior to approval of anyone of the following:

- (1) Initial application for site plan review;
- (2) Pre-application sketch plan;
- (3) Preliminary plat;
- (4) Final plat if application is for a minor subdivision;
- (5) Sediment and erosion control application.

B. A simplified Forest Stand Delineation may be submitted simultaneously with a Forest Conservation Plan.

- C. The applicant may submit a simplified Forest Stand Delineation for Department review before or after submitting any other required development plans, but his application for development shall not be approved until the simplified Forest Stand Delineation is approved.

6.4. General Requirements.

A simplified Forest Stand Delineation shall include:

- A. A field verified map showing the location and general species composition of existing forest cover; and,
- B. All requirements under Section 5.1.C (2) through (9) of this ordinance.

6.5. Approval.

A simplified Forest Stand Delineation shall be subject to all approval procedures enumerated in Section 5.1.D of this ordinance.

Article VII. Forest Conservation Plan

7.1. General Provisions.

A Forest Conservation Plan shall:

- A. Be prepared by a licensed forester, a licensed landscape architect, or other qualified professional; and,
- B. Be submitted prior to approval of any of the following:
 - (1) A final site plan or final plat;
 - (2) A final project plan;
 - (3) An application for a sediment and erosion control permit;
- C. Include the Forest Stand Delineation for the site; and,
- D. Be disapproved unless the accompanying Forest Stand Delineation is approved; and,
- E. Give priority to retaining existing forest on the site, and if these forests cannot be retained, then the applicant must demonstrate:
 - (1) How techniques for forest retention have been exhausted; and,
 - (2) Why any priority areas as defined in Section 9.2 cannot remain undisturbed;
 - [a]. If priority forests and priority areas cannot be left undisturbed, how the sequence for afforestation or reforestation will be followed in compliance with Natural Resources Article, Sec.5-1607, Annotated Code of Maryland; and
 - [b]. Where on the site in priority area afforestation or reforestation will occur in compliance with Natural Resources Article, Sec. 5-1607, Annotated Code of Maryland.
 - (3) How the disturbance to the priority forests and priority areas specified in Natural Resources Article Sec.5-1607 (c) (2), Annotated Code of Maryland qualifies for a variance.

F. Nontidal wetlands. A regulated activity within the net tract area that occurs wholly or partly in areas regulated as nontidal wetlands under Natural Resources Article, Sec. 8-1201--1211, Annotated Code of Maryland, and COMAR 08.05.04 is subject to both the nontidal wetlands regulatory requirements and the requirements of this law, subject to the following:

- (1) Any area of forest in the net tract area, including forest in nontidal wetlands that is retained, shall be counted towards forest conservation requirements;
- (2) For the purpose of calculating reforestation mitigation under this ordinance, a forested nontidal wetland permitted to be cut or cleared and required to be mitigated under COMAR 08.05.04 shall be shown on the forest conservation plan and subtracted on an acre for acre basis from the total amount of forest to be cut or cleared as part of a regulated activity;
- (3) Nontidal wetlands shall be considered to be priority areas for retention and replacement;
- (4) Nontidal wetland identification and delineation should be included at the earliest stages of planning to assist the applicant in avoidance and reduction of impacts to the nontidal wetlands and to avoid delay in the approval process.

G. The Forest Conservation Plan must be approved prior to the approval of any other required development permit.

7.2. Requirements.

A Forest Conservation Plan shall include:

- A. Table that lists the proposed values of the following, to the nearest 1/10th acre:
 - (a) Net tract area;
 - (b) Area of forest existing on-site;
 - (c) Area of forest conservation required as determined by Article 10 herein;
 - (d) Area of forest conservation proposed for both on-site and off-site areas.
- B. Include a clear graphic indication of any reforestation or afforestation provided on the site drawn to scale and showing the proximity of any retained forests; and,

- C. Include an explanation of how the provisions of Section 7.1 of this ordinance have been met; and,
- D. In the case of afforestation or reforestation, include an afforestation or reforestation plan, with a timetable and description of needed site and soil preparation, species, size, and spacing to be used;
- E. Show the proposed limits of disturbance;
- F. Show proposed stockpile areas;
- G. Show proposed locations and types of protective devices to be used during construction activities to protect trees and forests designated for conservation;
- H. In the case of afforestation or reforestation, include an afforestation or reforestation plan, with a timetable and description of needed site and soil preparation, species, size, and spacing to be used;
- I. Incorporate a binding two (2) - year maintenance agreement as provided for in Section 16.2 that details how the areas designated for afforestation or reforestation will be maintained to ensure protection and satisfactory establishment, including:
 - (a) Watering as necessary, and
 - (b) A reinforcement planting provision if survival rates fall below required standards, as provided in the Somerset County Forest Conservation Technical Manual;
- J. Incorporate a long-term binding protective agreement as specified in Section 16.3 that:
 - (a) Provides protection for areas of forest conservation, including areas of afforestation, reforestation, and retention, and
 - (b) Limits uses in areas of forest conservation to those uses that are designated and consistent with forest conservation, including recreational activities and forest management practices that are used to preserve forest;
- K. Other information required in the Somerset County Forest Conservation Technical Manual necessary to implement this ordinance, as determined by the Department.

7.3. Approval of Forest Conservation Plans.

- A. Within 45 calendar days after receipt of the final forest conservation plan, the Department shall notify the applicant whether the forest conservation plan is complete and approved.
- B. If the Department fails to notify the applicant within 45 calendar days, the plan shall be treated as complete and approved.
- C. The Department may require further information or extend the deadline for an additional 15 calendar days under extenuating circumstances.
- D. At the written request of the applicant, the Department may extend the deadline under extenuating circumstances.
- E. The Department's review of a final forest conservation plan shall be concurrent with the review of the final site plan or final conditions for site plan review, final subdivision or final project plan, or sediment control application associated with the project.
- F. The Department may revoke an approved forest conservation plan if it finds that:
 - (1) A provision of the plan has been violated;
 - (2) Approval of the plan 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 site necessitate preparation of a new or amended plan.
- G. Before revoking approval of a forest conservation plan, the Department shall notify the violator in writing and provide an opportunity for a hearing as in Section 9.1, Administrative Review.

Article VIII. Special Provisions for Minor Developments and Cluster Developments

8.1. Minor Developments.

1. Minor developments may utilize simplified Forest Stand Delineations as enumerated in Article 6 herein.
2. For calculating areas of forest conservation required, the net tract area may be limited to the area changing in land use.
3. Minor developments shall be exempt from submitting a Forest Conservation Plan if the following conditions are met:
 - the proposed area of forest cleared shall not exceed the forest conservation threshold as described in Article 10 herein; and,
 - all forests located in high priority areas as defined in Section 9.2 shall be retained and placed under a long term protective agreement meeting the requirements enumerated in Section 16.3; and,
 - all retained forests located within the Net Tract Area shall be placed under a long term protective agreement meeting the requirements enumerated in Section 16.3; and,
 - a fee is paid into the forest conservation fund described in Article XIV herein for those areas requiring afforestation.

8.2. Cluster Developments.

- A. Cluster developments which retain all existing forest areas located in stream buffers, critical habitat areas, highly erodible soils, and on steep slopes (except for unavoidable crossings for road and single driveway access) *and* which provide long term protection to at least 20% of the total tract area in forest cover shall:
 - (1) submit a simplified Forest Stand Delineation; and,
 - (2) be exempt from submitting a Forest Conservation Plan.
- B. All other cluster development projects, including those not providing long term protection to at least 20% of the total tract area in forest cover, shall:

Article 8 – Special Provisions for Minor Developments and Cluster Developments

- (1) submit a simplified Forest Stand Delineation; and,
- (2) submit a Forest Conservation Plan; and,
- (3) calculate forest conservation requirements using one of the following options chosen by the applicant:
 - (a) exclude all designated open space areas in forest conservation calculations (this is most advantageous when few forested areas exist); or,
 - (b) include all designated open space areas in forest conservation calculations (this is most advantageous when many forested areas exist).

Article IX. Afforestation and Retention

Areas set aside for retention should be as compact as possible and should not be divided among multiple lots unless it is unavoidable due to site constraints and priority areas. Mitigation Banking is strongly suggested as an alternative to the division of the retention area on multiple lots.

9.1. Afforestation Requirement.

A person making application after the effective date of this ordinance for site plan, subdivision or project plan approval, a grading or sediment control permit for an area of land of 40,000 square feet or greater, shall:

A. Conduct afforestation in accordance with the following:

- (1) Net tract areas having less than 20% forest cover shall be afforested up to at least 20% in the Conservation Zone CO-1 and the Conservation Zone CO-2, which are agricultural and resource areas; and,
- (2) Net Tract Areas with less than 15% forest cover shall be afforested up to at least 15% in all other remaining zoning districts and institutional uses permitted or by special exception.

B. Comply with the following when clearing forest cover that is currently below the afforestation percentages described in Section 9.1(A) (1) and (2) of this article:

- (1) The required afforestation level shall be determined by the amount of forest existing before clearing begins; and
- (2) Forest cleared below the required afforestation level shall be reforested or afforested at a 2 to 1 ratio and added to the amount of afforestation necessary to reach the minimum required afforestation level, as determined by the amount of forest existing before clearing began.

9.2 Retention.

The following trees, shrubs, plants, and specific areas are considered priority areas for retention and protection and shall be left in an undisturbed condition unless the applicant has demonstrated, in accordance with Section 7.1E and to the satisfaction of the Department, that reasonable efforts have been made to protect them and the plan cannot be reasonably altered:

- A. Trees, shrubs, and plants located in the 100-year floodplain, intermittent and perennial streams and their buffers, steep slopes, highly erodible soils, nontidal wetlands, and critical habitats;
 - B. Contiguous forest that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site;
- 9.2-1 The following trees, shrubs, plants, and specific areas are considered priority for retention and protection and shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the Department, that the applicant qualifies for a variance in accordance with Section 14.1 of this article:
- A. Trees, shrubs, or plants determined to be rare, threatened, or endangered under:
 - (1) The federal Endangered Species Act of 1973 in 16 U.S.C. §§1531--1544 and in 50 CFR Part 17,
 - (2) The Maryland Nongame and Endangered Species Conservation Act, Natural Resources Article, §§10-2A-OI--I0-2A-09, Annotated Code of Maryland, and
 - (3) COMAR 08.03.08.
 - B. Trees that:
 - (1) Are part of a historic site,
 - (2) Are associated with a historic structure, or
 - (3) Have been designated by the State or the Department as a national, State, or county champion tree; and
 - C. Any tree having a diameter measured at 4.5 feet above the ground of:
 - (1) 30 inches or more; or
 - (2) 75 percent or more of the diameter, measured at 4.5 feet above the ground, of the current State Champion Tree of that species as designated by the Department of Natural Resources.
 - D. Areas currently meeting the definition of Natural Regeneration as defined in Article II,

Section 2.3.36.

- E. Other sensitive areas as determined by the Department and as amended to this ordinance.

Article X. Reforestation.

10.1. Forest Conservation Threshold.

- A. There is a forest conservation threshold established for all land use categories, as provided in Subsection B of this article. 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 each acre removed above the threshold to a ratio of two (2) acres planted for each acre removed below the threshold.

- B. After reasonable efforts to minimize the cutting or clearing of trees and other woody plants have been exhausted in the development of a site plan, subdivision or project plan, grading and sediment control activities, and implementation of the forest conservation plan, the forest conservation plan shall provide for reforestation, or payment into the forest conservation fund, according to the formula set forth in Subsections Band C of this article and consistent with Section 6.1 of this article, and the following forest conservation thresholds for the applicable zoning districts:

<i>Zoning District</i>	<i><u>Threshold Percentage</u></i>
(1) Conservation Zones CO-1 and CO-2	50%
(2) Agricultural Zone A	
(A) Traditional approach, Unclustered	25% of net tract area
(B) Clustered	15% of proposed disturbance area
(3) Residential Zones R-1, R-2, and R-3	
(A) Without sewer	25%
(B) With sewer	15%
(4) Neighborhood Commercial Zone C-1	15%
(5) Highway Commercial Zone C-2	15%
(6) General Commercial Zone C-3	15%
(7) Light Industrial Zone I-1	15%
(8) General Industrial 1-2	15%
(9) Maritime Residential MRC	15%

C. Calculations.

- (1) For all existing forest cover measured to the nearest 1/10th 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 acre planted for each acre removed.

- (2) For all existing forest cover measured to the nearest 1/10th acre cleared on the net tract area below the applicable forest conservation threshold; the area of forest removed shall be reforested at a ratio of two (2) acres planted for each acre removed below the threshold.
- (3) All existing forest cover measured to the nearest 1/10th acre retained on the net tract area above the applicable forest conservation threshold shall be credited against the total number of acres required to be reforested under paragraph (1) of this subsection. The calculation of the credit shall be according to the criteria provided in the Somerset County Forest Conservation Technical Manual.

Article XI. Priorities and Time Requirements for Afforestation and Reforestation

11.1 Requirements for Afforestation and Reforestation.

- A. After techniques for retaining existing forest on the site have been exhausted, afforestation or reforestation shall occur either on-site or off-site by establishing forests at least 35 feet in width and encompassing 2,500 square feet of area.
- B. Afforestation and reforestation shall establish forests having at least 100 live trees per acre with the potential of attaining a median diameter at 4.5 feet above ground of two (2) inches or more after seven (7) years.
- C. If the afforestation cannot be reasonably accomplished within the watershed in which the project is located, then the afforestation or reforestation shall occur in Somerset County.
- D. Areas subject to Forest Conservation Protective Measures should be as compact as possible and should not be divided among multiple lots unless it is unavoidable due to site constraints or priority areas.

11.2 The following are considered priority areas for afforestation and reforestation:

- A. Nontidal wetlands and associated buffers;
- B. Stream buffers (50 feet from stream bank);
- C. Critical habitats of rare, threatened, or endangered species;
- D. Slopes greater than 15%;
- E. Highly erodible soils;
- F. Areas immediately adjacent to existing forests;
- G. Areas which may serve as buffers between differing land uses.

11.3 A person required to conduct afforestation or reforestation under this article shall accomplish it within one (1) year or two (2) growing seasons, whichever is a greater time period, following development project completion. For projects developing in planned phases, any required afforestation or reforestation may also be conducted in proportionate amounts determined by the disturbance area of each individual project phase.

11.4 Street trees may be planted in the municipalities of Crisfield and Princess Anne which have adopted this Ordinance, and which have an agreement with Somerset County for the administration of such ordinance, or in an existing population center designated as a growth area in the County Comprehensive Plan, or other designated area approved by the Department of Technical or Community Services as part of a local program.

Article XII. Projects Partially Located Within Critical Area.

- 12.1 **If a portion of the proposed regulated activity is located within the Critical Area, then afforestation or reforestation requirements shall follow those specified by the Somerset County Critical Area Program.**

- 12.2 **All Critical Area requirements on the Critical Area portion must be met within the Critical Area. However, the additional afforestation or reforestation necessary for the remainder may be conducted wholly or partially within the Critical Area. Protection agreements are required.**

Article XIII. Special Provisions for Linear Projects

13.1 Applicability.

Linear projects not exempted from the requirements of this ordinance pursuant to Section 3.2 (D), (E), and (L) shall meet the requirements enumerated in this article.

13.2 Requirements.

- A. All Forest Stand Delineations shall encompass an area at least 100 feet from the right-of-way centerline or 50 feet from the limits of disturbance if the right-of-way is greater than 50 feet in width.
- B. A simplified Forest Stand Delineation shall conform to the requirements of Article 6 and Section 13.2(A) and may be utilized when one of the following exists:
 - (1) Forest area cut or cleared is less or equal than 40 feet in width or if forest area cut or cleared is less than 120,000 square feet; or
 - (2) Access is denied for areas beyond the right-of-way; or,
 - (3) Multiple routes are being studied during application for a Certificate of Public Convenience and Necessity.
- C. The Forest Conservation Threshold as described in Section 10.1 (A) and (C) herein for linear projects is 20% of Net Tract Area.
- D. Linear projects that involve no change in land use shall not be subject to afforestation requirements.

13.3 Long Term Protection.

- A. Any retention or reforestation areas on linear project rights-of-way shall be exempt from a long term protective agreement if:
 - (1) the areas are maintained according to a Forest Conservation Plan; and,
 - (2) any areas placed under a Forest Conservation Plan which are subsequently removed from forest cover shall be replaced on a per acre basis within Somerset County.

Article XIV. Payment Instead of Afforestation and Reforestation

14.1 Forest Conservation Fund.

- A. There is established a Somerset County Forest Conservation Fund.
- B. If a person subject to this ordinance demonstrates to the satisfaction of the Department that requirements for reforestation or afforestation onsite or offsite cannot be reasonably accomplished, the person shall contribute money, into the Somerset County Forest Conservation Fund:
 - (1) For a project inside a priority funding area, as defined in Natural Resources article, Sec. 5-1610, Annotated Code of Maryland, at a rate of 30 cents per square foot of the area of required planting until September 30, 2014, when the amount shall be adjusted for inflation as determined by the Department annually regulation; and
 - (2) For a project outside a priority funding area, at a rate of 36 cents per square foot of the area of required planting until September 2014, when the amount shall be 20 percent higher than the rate established for a project inside a priority funding area.
- C. Money contributed instead of afforestation or reforestation under this article shall be paid within 90 calendar days after development project completion.
- D. Money deposited in the Somerset County Forest Conservation Fund, which is collected under Section 14.1 (B) or 19.1(B) (1):
 - (1) May be spent on the costs directly related to reforestation and afforestation, including site identification, acquisition, and preparation, maintenance of existing forests and achieving urban canopy goals;
 - (2) Shall be deposited in a separate fund, specifically for forest conservation and forest enhancement activities which achieve the objectives of the Somerset County Comprehensive Plan and Forest Conservation Program;
 - (3) May not revert to the County's general fund;
- E. Sites for Afforestation or Reforestation Using Fund Money.

Article 14 – Payment Instead of Afforestation and Reforestation

- (1) The reforestation or afforestation requirement under this article shall occur in Somerset County and in the watershed in which the project is located.
- (2) If the reforestation or afforestation cannot be reasonably accomplished in the watershed in which the project is located, then the reforestation or afforestation shall occur in Somerset County under the discretion of the Department.

Article XV. Recommended Tree Species

15.1 Recommended Tree Species List.

- A. Tree species used for afforestation or reforestation shall be native to Somerset County, and selected from a list of approved species.

- B. The Department shall adopt a list of approved tree species to be used for any required afforestation or reforestation and incorporate it into the Somerset County Forest Conservation Technical Manual. This list shall be updated from time to time as amendments become necessary subject to approval from the Department of Natural Resources.

Article XVI. Forest Protection

16.1 Protection Devices.

- A. Standards for the protection of trees from construction activity that are at least as effective as the standards provided by the Department of Natural Resources shall be incorporated into the Somerset County Forest Conservation Technical Manual. These standards shall be updated from time to time as amendments become necessary subject to approval from the Department of Natural Resources.

- B. Before cutting, clearing, grading, or construction begins on a site for which a forest conservation plan is required by this ordinance, the applicant shall demonstrate to the Department that protective measures have been established.

Forest Conservation Maintenance and Management Agreements

16.2. Short Term Protective Agreements.

A. Maintenance Agreements.

- (1) Application. A person required to conduct afforestation or reforestation shall include in the forest conservation plan a binding maintenance agreement for the length of two (2) years, as specified in the Somerset County Forest Conservation Technical Manual.

- (2) Approval procedures and timing shall be consistent with the procedures provided in this ordinance and the Somerset County Forest Conservation Program.

- (3) The maintenance agreement shall detail how the areas designated for afforestation or reforestation will be maintained to ensure protection and satisfactory establishment of forest, following the standards provided in the Somerset County Forest Conservation Technical Manual.

- (4) The person required to conduct the afforestation or reforestation, after this referred to as the “obligee”, shall present evidence of a legal right to implement the proposed maintenance agreement on a selected site by providing:
 - (a) An executed deed conveying title to a selected site to the obligee;

 - (b) An executed conservation easement agreement;

- (c) Written evidence of the landowner's consent to the use of a selected site;
 - (d) A fully executed option agreement, long-term lease agreement, or contract of sale for a selected site; or
 - (e) Other written evidence of a possessory or ownership interest in a selected site.
- (5) The County shall be a signatory to the maintenance agreement, or shall be designated a third-party beneficiary of the agreement.
- (6) The Department may not release a bond or end monitoring without receipt of a long term protective agreement on those lands where afforestation or reforestation will occur.
- (7) The maintenance agreement shall provide for access, for the duration of the maintenance agreement, by the Department to the afforestation or reforestation site.

B. Bonding.

- (1) Application.
- (a) A person required to conduct afforestation or reforestation under this Ordinance shall include a bond or other financial security as an element of a forest conservation plan.
 - (b) The County reserves the right to require a bond or other financial security to insure tree planting performed with in-lieu-of fees survives for two years.
 - (c) This section does not apply to agencies of any federal, state, county or municipal government.
- (2) Requirements. A financial security shall be furnished in the form of:
- (a) A bond which shall be made payable to the Somerset Board of County Commissioners; or,
 - (b) An irrevocable letter of credit which shall:

- (i) Be equivalent to the required bond,
 - (ii) Be issued by a financial institution authorized to do business in Maryland,
 - (iii) Expressly state that the total sum is guaranteed to be available and payable directly to the County on demand in the event of forfeiture, and
 - (iv) Be in force until all mitigation for reforestation and afforestation and monitoring requirements have been fulfilled to the satisfaction of the Department or until all contributions have been made to the Somerset County Forest Conservation Fund; or,
- (c) Other security approved by the County.

(3) The financial security shall:

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

(4) The value of the financial security:

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

- (ii) Cost estimates shall be provided in writing by the applicant and subject to verification by the Department, or
 - (iii) When appropriate, if necessary, the amount due for a fund contribution;
- (b) May be adjusted according to the actual cost of mitigation for afforestation and reforestation or, if the cost of future mitigation work changes, the County shall notify the obligee of a proposed adjustment and provide an opportunity for an informal conference on the adjustment; and
 - (c) May be reduced if the obligee proves to the County that the costs to complete the mitigation project have been reduced.
- (5) A surety bond or other alternative form of security may not be canceled by the surety, bank, or other issuing entity unless both of the following conditions are satisfied:
- (a) The surety notifies the County and the obligee of its intent to cancel the bond, in writing, by registered mail, not less than 90 days before cancellation; and
 - (b) At least 45 days before the cancellation date indicated in the notice, the obligee files a commitment from a surety, bank, or other issuing entity to provide a substitute security which will be effective on the cancellation date indicated in the notice.
- (6) After one growing season, the person required to file a bond or other financial security under this regulation may request reduction of the amount of the bond or other financial security by submitting a written request to the County with a justification for reducing the bond or other financial security amount, including estimated or actual costs to ensure that the afforestation or reforestation requirements are met.
- (7) The County shall determine whether a lesser amount is sufficient to cover the cost of afforestation or reforestation, taking into account the following:
- (a) The number of acres;
 - (b) The proposed method of afforestation or reforestation~

- (c) The cost of planting materials or replacement materials;
 - (d) The cost of maintenance of the afforestation or reforestation project; and
 - (e) Other relevant factors, as determined by the Department.
- (8) If, after two growing seasons, the plantings associated with the afforestation or reforestation meet or exceed the standards of the Somerset County Forest Conservation Technical Manual, the remaining amount of the cash bond, letter of credit, surety bond, or other security shall be returned or released.
- (9) Bond Release.
- (a) The bond shall be released on receipt of written notice from the County if applicable stating that all afforestation or reforestation requirements have been met.
 - (b) The written notice shall be sent at the end of the required 2-year monitoring and management period, as provided in the maintenance agreement.
 - (c) If the County fails to send written notice within 60 days after the end of the monitoring and management period, the bond shall be automatically released.
- (10) Financial Security Forfeiture
- (a) The bond or other financial security may be subject to forfeiture if the obligee fails to comply with:
 - (i) The Department's revocation of the approved Forest Conservation Plan, as in Section 7.3(E); or
 - (ii) A stop work order.
 - (b) The County shall notify the obligee, by certified mail, of the intention of the County to initiate forfeiture proceedings.
 - (c) The obligee has 30 days from receipt of the notice of forfeiture to show cause why the bond or other financial security may not be forfeited through an administrative appeal as in Section 19. 1(E)

- (d) If the obligee fails to show cause, the bond or other financial security shall be forfeited.

16.3 Long-Term Protective Agreements.

An applicant under this ordinance shall have in effect after forest conservation plan approval, approved long-term protective measures to retain as forest all land forested, afforested or reforested under this ordinance. These may include one or more of the following:

A. Approved Forest Management Plan.

(1) Procedure for Approval

- (a) An application for approval of a forest management plan shall include all information required in the Forest Conservation Technical Manual.
- (b) The forest management plan shall be:
 - (i) Legally binding from the date of approval;
 - (ii) Prepared by a licensed professional forester
 - (iii) Submitted to the Department of Natural Resources Forester (Forester) assigned to Somerset County; and
 - (iv) May be amended periodically, as provided for in Section 16.3 (B) (2).
- (c) The Forester shall review the plan to ensure that it is complete and consistent with this ordinance.
- (d) The Department shall notify the applicant whether the forest management plan has been approved.

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

- (a) An approved forest management plan may be amended if there is a change in site conditions or landowner objectives.
- (b) Amendments shall be prepared by a licensed professional forester.

- (c) The amendment shall be submitted to the Department of Natural Resources (Forester) assigned to Somerset County.
- (d) The Forester shall review the amendment to ensure that it is complete and consistent with this ordinance and the Somerset County Forest Conservation Program.
- (e) The Department shall notify the applicant as to whether the amendment has been approved.
- (f) The applicant shall sign the amendment.

B. Forest Conservation and Management Agreement. An applicant may satisfy the requirement for long-term protection under Natural Resources Article, §5-1607(e), Annotated Code of Maryland, by executing a Forest Conservation and Management Agreement, as provided in Tax-Property Article, §8-211, Annotated Code of Maryland, and COMAR 08.07.03.

C. Other Legally Binding Protective Agreements, at the discretion of the Department.

(1) Other legally binding protective agreements include:

- (a) Covenants running with the land;
- (b) Deed restrictions;
- (c) Conservation easements; and
- (d) Land trusts.

(2) Other legally binding agreements shall provide:

- (a) Long-term protection for land forested, afforested, or reforested under this ordinance and the Somerset County Forest Conservation Program; and
- (b) Limitation on the uses of forest to those that are consistent with forest conservation.

(3) Agreement and replacement of a Forest Protection Area:

- (a) Changes to a Long Term Protective Agreement and replacement of the designated area are strongly discouraged; however, should it be deemed necessary on the part of the property owner, application for amendments may be made to the Department of Technical and Community Services, who, on receipt of a fee equal to that of a Zoning Ordinance Amendment, shall schedule it before the Board of Zoning Appeals.
- (b) The amendment and proposed forest protection area must receive preliminary review by a licensed professional forester prior to submittal to the County.
- (c) The applicant must state the reason for the amendment request.
- (d) The applicant is responsible for placement of the public notice, as prepared by the Department, in a newspaper of local circulation in the area in question and must pay the cost of publication. The notice must appear fifteen days prior to the public hearing and for two consecutive weeks.
- (e) Approval to move the Forest Conservation Area will be conditional upon bonding or posted surety for mitigation, a new approved Forest Stand Delineation and Management Plan and a Long Term Protection Agreement. Standard fees are required.
- (f) Mitigation will be set as follows:
 - (i) If the original site is within a County approved Growth Area, as shown in the Comprehensive Plan, mitigation will be set at 1: 1 for a site approved under the County Forest Conservation Process.
 - (ii) If the site is not within a Growth Area, mitigation will be recommended at a 1.5 to 1 basis, for a site approved under the County Forest Conservation Process.
 - (iii) If the site is determined to be unequal in terms of characteristics of the existing forest during the review process, the applicant may either search for an appropriate site or mitigation will be set at a 2 to 1 basis. Mitigation in Mitigation Bank will be at the 2 to 1 basis.
- (g) Sites previously selected because of a Sensitive Area may not be moved unless favorable comment is received from the State Agency with oversight of that resource.

D. An applicant may include in a Forest Conservation Plan another long-term protective measure if the applicant demonstrates to the satisfaction of the Department that the measure will provide for the long-term protection of the areas retained, afforested or reforested under this subtitle.

E. Procedure for a Timber Harvesting Plan.

(1) An individual may harvest timber on forested, reforested, or afforested areas protected under an approved forest conservation plan provided that the harvest.

(a) Is consistent with the intent of an approved forest management plan,

(b) Is subject to a timber harvest plan:

(i) Prepared by a licensed professional forester,

(ii) Submitted to the Somerset Forest Conservancy District Board for review and approval, and

(iii) That remains in effect for two (2) years; and

(c) Is consistent with the intent and requirements of the approved forest conservation plan.

(2) The Somerset Forest Conservancy District Board shall notify the Department or the individual whether the timber harvest plan under Section 16.3 (F) (1) has been approved.

Article XVII. Forest Conservation Credits.

17.1 Credits for Afforestation, Reforestation, and Retention.

- A. All afforestation, reforestation, and forest retention in excess of those amounts required for individual regulated activities may be credited towards mitigation requirements of future projects subject to the following:
- (1) All credits shall be earned and applied on a per acre basis; and,
 - (2) Credits shall be earned only from activities occurring in Somerset County which are not exempt from this ordinance and shall be applied to future projects in Somerset County; and,
 - (3) Credits shall be earned only from areas within the Net Tract Area; and,
 - (4) Credits shall be earned only after all requirements of the short term management agreement as described in Section 16.2 have been satisfied as determined by the Department; and,
 - (5) Credits shall be earned only on forested areas placed under long term protection as described in Section 16.3; and,
 - (6) The Department may accept or reject application for the earning of credits or the use of credits at its discretion.

Article XVIII. Forest Mitigation Banking

Forest Mitigation Banking is permitted on private land for the mutual benefit of landowners to purchase and sell mitigation bank credits and persons who must meet forest conservation requirements.

A. Sites must be 10 acres and include one of the following:

- (1) Existing forestland of 10 acres or more.
- (2) Establishment of riparian forest buffer planting along agricultural stream systems or streams designated for riparian buffers within a county watershed plan.
- (3) Enhancement of riparian forested areas by planting adjacent to existing protected forested riparian areas.
- (4) Establishment of planting on soils that will not perc in accordance with Health Department requirements.

B. To create a forest mitigation bank:

- (1) Landowner is required to develop a Forest Conservation Plan with a licensed Maryland forester, licensed landscape architect, or Maryland DNR qualified Environmental Professional. Requirements of a Forest Conservation Plan are listed under Article VII, 7.2.
- (2) A two-year maintenance agreement is required (7.2. I); and a LTPA, longterm protection agreement (7.2, J). This LTPA should be notarized at the Somerset County Department of Technical and Community Services office.
- (3) The Forest Conservation Plan and LTPA will be filed by the county with the Clerk of Courts.
- (4) A Forest Conservation Planting will require the posting of a Letter of Credit from a financial institution for two (2) years from plan approval.
- (5) Landowners must obtain final approval of their Forest Conservation Plan from the Somerset County Department of Technical and Community Services Forest Conservation Program, prior to the selling of mitigation credits.

- (6) Any agreement made for selling and/or purchasing mitigation credits is between individual parties, and is not between the Somerset County Department of Technical and Community Services or its employees/agents.
- (7) Lands under CREP, or similar programs, are not eligible for mitigation banking.

C. To utilize Forest Mitigation Credits to meet forest mitigation requirements:

- (1) Submit a letter to Somerset County Department of Technical and Community Services signed by both buyer and seller of mitigation credits indicating the number of acres and credits utilized and reference the Forest Conservation Plan.
- (2) Credits are utilized and given on a 1110-acre basis. For example, a Forest Conservation Plan banking 10 acres would equal 100 credits. A landowner requiring 5 acres of forest mitigation would purchase 50 credits from a Forest Mitigation Bank.

Article XVIV. Variances.

19.1 Procedure.

- A. A person may request a variance from this ordinance if the person demonstrates that enforcement would result in unwarranted hardship to the person.

- B. An applicant for a variance shall:
 - (1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;

 - (2) Describe how enforcement of these rules will deprive the applicant of rights commonly enjoyed by others in similar areas;

 - (3) Verify that the granting of the variance will not confer on the applicant a special privilege that would be denied to other applicants;

 - (4) Verify that the variance request is not based on conditions or circumstances which are the result of actions by the applicant;

 - (5) Verify that the request does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; and

 - (6) Verify that the granting of a variance will not adversely affect water quality; and,

 - (7) Meet all applicable procedural provisions for a zoning variance as given in the Somerset County Zoning Ordinance, Section 9.3.

- C. The Somerset County Board of Appeals shall make findings that the applicant has met the requirements in Subsections A and B of this article before the Board of Appeals may grant a variance.

- D. The County shall provide to the Department of Natural Resources notification of a variance application at least 15 days prior to a hearing date. The Department of Natural Resources shall have the right to review such variance requests and comment in administrative, judicial, or other proceedings. Written response received from the Department of Natural Resources prior to the hearing date will be presented to the Somerset County Board of Zoning Appeals.

Article XX. Administration.

20.1 Enforcement.

- A. The Department may issue a stop work order against a person who violates a provision of this ordinance or a regulation, order, approved forest conservation plan, or maintenance agreement.
- B. Sites subject to the requirements of this ordinance may be inspected by the County or its duly appointed representative upon notification of the owner or developer, in keeping with the Somerset County Forest Conservation Manual.
- C. Noncompliance Fees.
 - (1) A person found to be in noncompliance with this ordinance, regulations adopted under this ordinance, the forest conservation plan, or the associated 2year maintenance agreement, shall be assessed by the Department the penalty of \$0.30 per square foot, or \$13,068.00 per acre of the area found to be in noncompliance with required forest conservation.
 - (a) Before such action, the violator shall be notified in writing and allowed an opportunity for a hearing as under Section 19.1 (F).
 - (2) Money collected under Section 19.1 (B)(1) of this article shall be deposited in the Somerset County Forest Conservation Fund as required by Article 14 of this ordinance, and may be used by the Department for purposes related to implementing this ordinance.
- D. Violation.
 - (1) In addition to the provisions under Subsection B of this article, a person who violates a provision of this ordinance or a regulation or order adopted or issued under this ordinance is liable for a penalty not to exceed \$1,000, which may be recovered in a civil action brought by the Department.
 - (2) Each day a violation continues is a separate violation.
- E. The Department may seek an injunction requiring the person to cease violation of this ordinance and take corrective action to restore or reforest an area.
- F. Administrative Appeals An appeal from any final order or decision by the Department may be taken to the Board of Appeals by any person aggrieved. An appeal is taken by

filing with the Board of Appeals under the procedures established for a zoning appeal in the Somerset County Zoning Ordinance, Section 9.

20.2. Qualified Professional.

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

(1) Is a licensed forester;

(2) Is a licensed landscape architect; or

(3) Meets the minimum requirements for Qualified Professionals as determined by the Maryland Department of Natural Resources for preparing Forest Stand Delineations and Forest Conservation Plans and is approved in writing by the Maryland Department of Natural Resources as a qualified professional.

B. A licensed surveyor may prepare simplified Forest Stand Delineations.

20.3 Fees

A nonrefundable fee will be collected for each Simplified Forest Stand Delineation, Forest Stand Delineation, and Forest Conservation Plan submitted. This fee will provide for the cost of plan review, administration and management of the plan approval process, and inspection and monitoring of all projects subject to this ordinance. A permit fee schedule shall be established as needed by the Somerset Board of County Commissioners.

Article XXI. Amendments, Annual and Biennial Review of Program.

21.1. Amendments.

The provisions of this ordinance may be amended by the Somerset Board of County Commissioners in accordance with the procedures for text amendments as set forth in the Somerset County Zoning Ordinance Section 13. Such amendments shall be consistent with The Forest Conservation Act, Natural Resources Article 5-1601--5-1612, Annotated Code of Maryland, and the regulations adopted by the State of Maryland for forest conservation as promulgated in COMAR 08.19.01--08.19.06. Proposed amendments shall be referred to the Maryland Department of Natural Resources for review and approval.

21.2 Annual Report

1. On or before July 1 of each year after the effective date of this ordinance, the Department shall prepare, and the County submit to the Senate Economic and Environmental Affairs Committee and the House Environmental Matters Committee a report on:
 - The number, location, and type of projects subject to the provisions of this ordinance;
 - The amount and location of acres cleared, conserved, and planted in connection with a development project;
 - The amount of reforestation and afforestation fees and noncompliance penalties collected and expended;
 - The costs of implementing the Somerset County Forest Conservation Program;
 - The number, location, and type of violations and types of enforcement activity conducted in accordance with the provisions of this ordinance;
 - To the extent practicable, the size and location of all conserved and planted forest areas, submitted in an electronic geographic information system or computer aided design format.

21.3. Biennial Review by the Department of Natural Resources.

The Department shall submit the necessary documentation to comply with COMAR 08.19.02.04, which shall consist of the information provided annually as provided in Section 20.2 of this ordinance, and other information requested by the Department of Natural Resources in writing

60 days in advance.

Article XXII. Effective Date.

22.1. This ordinance is hereby enacted and becomes effective July 5, 2011.

Submittal Requirements

FULL FOREST STAND DELINEATION (FSD) CHECKLIST

1. Site Vicinity Map

- North Arrow
- Location of the Project Site and Surrounding Area within one (1) square mile
- Major Roads
- Adjacent Land Uses
- Forested Areas
- Minimum Scale of 1"=2000' (1:24,000)
- Political Boundaries

2. Environmental Features Map

- North Arrow
- Property Boundaries (tax maps, plats, or surveyed boundaries)
- Title, Date, Revisions, Scale, and Legend
- Certification by Qualified Professional or stamp of a Maryland licensed L.A. or Forester
- Topographic Contours and Interval (USGS 7 ½ minute quad or spot elevations)
- Steep Slopes greater than 25% (on areas greater than or equal to 10,000 square feet)
- 100 – year Nontidal Floodplain (Watersheds of 400 acres or larger or Class III streams)
- Intermittent and Perennial Streams (USGS 7 ½ minute quads of SCS Soil Surveys)
- Stream Buffers (50-foot width)
- Soil Classifications (SCS Soil Surveys) indicating soils with structural limitations, hydric properties, or K value greater than 0.35 on slopes greater than or equal to 15%
- Nontidal or Tidal Wetlands and Buffers (National Wetlands Inventory or Maryland Department of the Environment)
- Critical Habitat Areas
- Forested Areas and Unforested Areas including tree lines extending offsite
- Priority Afforestation Areas
- Priority Retention Areas
- Field Sampling Locations
- Location, Description, and Size of Forest Stands
- Location of Trees or Stands which have trees that are:
 - Rare, Threatened, and Endangered species of plants (MD Natural Heritage Program)
 - Part of a Historic Site or associated with a Historic Structure
 - Designated by Maryland Department of Natural Resources or Local Authority as a champion tree for that species
 - Specimen trees of 30" dbh or greater (local jurisdictions may vary)

- Trees with at least 75% of the diameter of the State champion tree of that species

3. Forest Stand Analysis

- Site Description
- Methodology
- Summary for each stand describing stand composition, stand structure, stand condition, retention potential relating to proposed development, specific management recommendations, stand function (water quality benefits, specific wildlife habitat value, and other land use objectives, including recreation, timber management, etc.)
- Recommendations for specific areas such as specimen trees
- Field sampling data sheets, if required, including property name, name of person collecting data, date of data collection, and complete data for each sample plot
- Forest stand summary sheets including property name, location, name of person preparing summary, date of preparation, and summary for each forest stand

4. Application

- Complete information including signature (COMAR 08.19.04.02)

SIMPLIFIED FOREST STAND DELINEATION (FSD) CHECKLIST

1. Site Vicinity Map

- North Arrow
- Location of the Project Site and Surrounding Area within one (1) square mile
- Major Roads
- Adjacent Land Uses
- Forested Areas
- Minimum Scale of 1"=2000' (1:24,000)
- Political Boundaries

2. Environmental Features Map

- North Arrow
- Property Boundaries (tax maps, plats, or surveyed boundaries)
- Title, Date, Revisions, Scale, and Legend
- Certification by Qualified Professional or stamp of a Maryland licensed L.A. or Forester
- Topographic Contours and Interval (USGS 7 ½ minute quad or spot elevations)
- Steep Slopes greater than 25% (on areas greater than or equal to 10,000 square feet)
- 100 – year Nontidal Floodplain (Watersheds of 400 acres or larger or Class III streams)
- Intermittent and Perennial Streams (USGS 7 ½ minute quads of SCS Soil Surveys)
- Stream Buffers (50-foot width)
- Soil Classifications (SCS Soil Surveys) indicating soils with
 - structural limitations
 - hydric properties
 - K value greater than 0.35 on slopes greater than or equal to 15%
- Nontidal or Tidal Wetlands and Buffers (National Wetlands Inventory or Maryland Department of the Environment)
- Critical Habitat Areas (Maryland Natural Heritage Program)
- Forested Areas and Unforested Areas including tree lines extending offsite
- Proposed Limits of Disturbance
- Areas proposed for long-term protection (if forest exists)
- Past and Present Management of
 - Forested Areas
 - Unforested Areas
- Adjacent Land Uses
- Forested Areas and Unforested Areas including tree lines extending offsite
- Size and Location of adjacent forested areas
- Forest type (dominant species)

3. Application

- Complete information including signature (COMAR 08.19.04.02)

FOREST CONSERVATION APPLICATION

****Effective February 1, 2001****

Submit All Application Documents in Duplicate

Project Name: _____ PROJECT #: _____

Location: _____

Description: _____

Watershed Name: _____ Subwatershed #: _____

County: _____ Municipality: _____

Maryland Grid Coordinates Centroid: _____ ft North: _____ ft East

North American Datum Year: 1927 / 1983 / 1991 (circle one)

Tax Map #: _____ Grid#: _____ Parcel#: _____ Block#: _____

Lot #: _____ District/Account#: _____

Liber: _____ Folio: _____

By signing below, the applicant certifies that he or she has the legal right to implement proposed planting, maintenance and/or a long-term protection agreement. The applicant further certifies that the property subject to a long-term protection agreement is not otherwise protected under federal, state or local programs.

Applicant Signature: _____ Date: _____

Applicant Name: _____ Owner: Y N (circle one)

Firm Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Phone #: _____ Email Address: _____

Indicate if applicant or agent is to be the contact (circle one)

Agent Name: _____

Firm Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Phone #: _____ Email Address: _____

Project #: _____

FOREST STAND DELINEATION INFORMATION

Total Tract Area: _____ Acre(s)
 Area within 100 year floodplain: _____ Acre(s)
 Area remaining in agriculture: _____ Acre(s)
 Other: _____ Acre(s)

Net Tract Area: _____ Acre(s)
 Area of Existing Forest: _____ Acre(s)
 Area of Existing Nontidal Wetlands Forest: _____ Acre(s)
 Total Area in Sensitive Areas: _____ Acre(s)

Forested Stream Buffers (50 ft. wide minimum) (circle): Yes / No

Forested Stream Buffers (50 ft. wide minimum) (circle): one / both sides

Buffer Area Forested (Area): _____ Acre(s)

Buffer Area Forested (Length) : _____ Feet

Steep Slopes (circle one): Yes / No

Threatened and Endangered Species (circle one): Yes / No

Dominant and Codominant Forest Species _____

Forest Stand Delineation Prepared By (print name): _____

<u>Submission of Forest Conservation Plan Elements</u>	<u>Forest Stand Delineation</u>			<u>Forest Conservation Plan</u>		<u>Record Plat</u>	<u>Amended FCP/ Enforcement</u>
	Simp	Int	Full	Prelim	Final		
Application	x	x	x	x			
Stand Summary Analysis			x				
Table Showing:							
Parcel Size and ID	x	x	x	x	x	x	x
Total Tract Area		x		x	x		x
Net Tract Area		x		x	x		x
Total Existing Forest Area	x	x	x	x	x		x
Land Use Category, Threshold % and Area		x		x	x		x
Area of Proposed Clearing		x		x	x		x
Area of Retention		x		x	x	x	x
Area for Planting				x	x	x	x
Map:							
Vicinity Map	x	x	x	x	x		
Environmental Features Map	x	x	x	x	x		
Location/description of Existing Forest Area	x	x	x	x	x		
Stamp/Certification by Preparer	x	x	x	x	x		x
Priority Areas							
Priority Retention Areas		•	x	x	x		
Priority Planting Areas			x	x	x		
Limits of Disturbance/Building Restriction Lines	•	•		x	x		x
SRA, Utility Easements, Stormwater Mgmt				x	x		
Stockpile Areas					x		
Forest Retention Areas							
Forest Protection Devices/Amended Sediment/Erosion Control Plan				x	x		
Location				x	x		
Specifications/Details				x	x		

	If 0-30% of CRZ is disturbed, forest and tree protection measures and/or practices					X		X
	Construction Sequence				X	X		
	Demonstration that Priority Areas cannot be retained, if applicable				X	X		
	Location/Protection	•	•		X	X		
Planted Areas - Offsite Planting Requires:								
	Site/Vicinity Map				X	X		
	Legal Right to Plant/Maintain				X	X		
Planting Plan								
	Specifications, Site Prep, Planting Schedule w/ species, stocking (number, spacing or distribution) size, condition, plant source				X	X		X
	Construction/Planting Sequences				X	X		X
Management and Monitoring								
	Protection				X	X		X
	Reinforcement Planting				X	X		X
	Binding Agreement*					X		
	Financial Security*					X		
Location/Protection					X	X		X
Long-Term Protection*:								
	Agreement between Parties				X	•	X	
	Description of Allowed Activities				X	X		
	Specifications/Details for Protection (signs)				X	X		
	Location of Retention and Planting Areas				X		X	
	Survey Description/Metes and Bounds					•	X	
Recorded/Tracked								
	Cross-Reference Approved FCP					•	X	

Areas not subject to FCP must contain restrictive note for later applications						•	x	
Mitigating Measures/Enforcement:								
Added Forest and Tree Protection Measures								x
Added Planting								x

- As condition of Approval
- For details on approvals by State Forest Conservation Program, contact DNR - Forest Service