ORDINANCE NO. 771

INTRODUCED BY: _____

AN ORDINANCE OF THE TOWN OF DENTON TO REPEAL AND REENACT THE FOREST CONSERVATION ORDINANCE TO COMPLY WITH RECENT UPDATES TO THE MARYLAND ANNOTATED CODE, NATURAL RESOURCES ARTICLE, §§ 5-1601 – 5-1613

WHEREAS, pursuant to Maryland Code Ann. Land Use Article § 4-202 to adopt such zoning regulations as it determines are in the public health, safety and welfare; and

WHEREAS, on April 1, 2021 by Ordinance No. 711, the Town of Denton adopted the Town of Denton Forest Conservation Ordinance; and

WHEREAS, Maryland Annotated Code, Natural Resources Article §§ 5-1601 – 5-1613 has been amended since the Town's adoption of the Denton Forest Conservation Ordinance; and

WHEREAS, the Forest Preservation and Retention Act of 2023, adopted by Senate Bill 526, became effective on July 1, 2026, and seeks to strengthen tree and woodland protections necessitating amendments to the Denton's Forest Conservation Ordinance; and

WHEREAS, the Mayor and Council have determined that it is desirable and in the public interest to repeal in its entirety and reenact the Denton Forest Conservation Ordinance to comply with the Forest Preservation and Retention Act of 2023.

NOW, THEREFORE, BE IT ENACTED, the Denton Town Council hereby ordains as follows:

SECTION 1: Chapter 60 of the Denton Town Code titled, Forest Conservation, is hereby repealed and replaced with Chapter 60 attached hereto and incorporated herein.

SECTION 2: If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Denton Town Council hereby declares that it would have passed this Ordinance and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional.

SECTION 3: In accordance with § C3-12 of the Town Charter, this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect seven (7) days from and after the date of its final passage and adoption, except that in accordance with Md. Code Ann., Land Use § 4-203(b)(3), this Ordinance shall not be effective until at least ten (10) days after a public hearing is held.

ENACTED THIS _____ DAY OF _____, 2026.

DENTON TOWN COUNCIL:

_____
Abigail McNinch, Mayor

_____
Dallas Lister, Councilperson

_____
Lester L. Branson, Councilperson

_____
Walter Keith Johnson, Councilperson

_____
Frank Taylor, Councilperson

ATTEST:

_____
Karen L. Monteith, Clerk-Treasurer

Approved for legal sufficiency this _____ day of _____, 2026.

_____
Lyndsey Ryan, Town Attorney

Date Introduced _____
Date Amendments Introduced _____
Date Passed _____
Effective Date _____

Text that is ~~stricken~~ reflects language omitted from the Town Code
Text in ***bold and italicized*** reflects additions to the Town Code

Chapter 60 FOREST CONSERVATION

§ 60-1. Title; authority; jurisdiction; purpose.
§ 60-2. Definitions.
§ 60-3. Application; exemptions; declaration of intent.
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§ 60-1. Title; authority; jurisdiction; purpose.

A. Title. This chapter shall be known as the "Denton Forest Conservation Ordinance."

B. Legislative authority. This chapter is established as mandated by State of Maryland Natural Resources Article, §§ 5-1601 through 5-1613, of the Annotated Code of Maryland.

C. Jurisdiction. The provisions of this chapter shall apply to the incorporated territory of Denton, Maryland.

D. Purpose and intent.

(1) The Town Council of Denton has determined that to meet the requirements of Natural Resources Article, §§ 5-1601 through 5-1613, of the Annotated Code of Maryland, the provisions of this chapter must be enacted.

(2) The purpose of this chapter, as stated by the Department of Natural Resources, is to prohibit certain development projects from cutting or clearing certain forests within the community unless a forest stand delineation and a forest conservation plan are in effect.

(3) The Town Council of Denton has determined that this chapter is consistent with the intent, requirements, and standards of Natural Resources Article, §§ 5-1601 through 5-1613 of the Annotated Code of Maryland.

(4) The Town Council of Denton established this chapter affording due consideration to the policy goals established under:

(a) Title 5, Subtitle 7A of the State Finance and Procurement Article, Annotated Code of Maryland; and

(b) The plans adopted under Title 1, Subtitle 4 and Title 3 of the Land Use Article, Annotated Code of Maryland.

E. Conflict with other regulations. Should this chapter be found to conflict with any other regulation orchapter for the Town of Denton, the more restrictive of the two shall be deemed to control.

F. Compliance with this chapter. All projects that ultimately require the approval of subdivision, erosioncontrol, or grading must comply with this Denton Forest Conservation Ordinance's requirements.

§ 60-2. Definitions.

A. Word usage. The following rules shall apply to this chapter:

(1) The words "shall" and "will" are mandatory.

(2) Unless the context otherwise specifies, words used in the present tense shall include the future;words used in the singular number include the plural, and words in the plural number include the singular.

(3) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

(4) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for,"or "occupied for."

(5) Unless the context indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either/or," the conjunction shall be interpreted as follows:

(a) "And" indicates that all the connected items, conditions, provisions, or events shall apply.

(b) "Or" indicates that the connected items, conditions, provisions, or events may applyseparately or in combination.

(c) "Either/or" indicates that the connected items, conditions, provisions, or events shall applyseparately but not in combination.

(6) The word "includes" shall not limit a term to the specified examples but is intended to extend its meaning to all other instances or circumstances of like-kind or character.

(7) Words and terms not defined herein shall be interpreted following their standard dictionary meaning.

B. Terms defined. In this chapter, the following terms have the meanings indicated:

100-YEAR FLOOD — A flood that has a 1% 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.

100-YEAR FLOODPLAIN — 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 ora 100-year flood. For this chapter, the 100-year floodplain boundaries coincide with those identified on the Flood Insurance Rate Map (FIRM), most recently published by the Federal Emergency Management Agency (FEMA).

AFFORESTATION —

(1) Establishment of a biological community dominated by trees on an area from which forest cover has been absent for a long period of time; or

(2) Planting of open areas which are not presently in forest cover, including streetscapes, landscapebuffers, and areas indicated in the Comprehensive Plan for planting; or

(3) Establishment of a forest according to procedures outlined in the State Forest ConservationTechnical Manual.

AGRICULTURAL ACTIVITY — Farming activities, including plowing, tillage, cropping, installation of best management practices, seeding, cultivating, and harvesting for the 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 cultivatedas part of a recognized commercial enterprise.

AGRICULTURAL AND RESOURCE AREAS — Undeveloped areas zoned for densities of less than or equal to one dwelling unit per five acres or one dwelling unit and farm caretaker dwelling unit per 20 acres.

APPLICANT — A person applying for subdivision or project plan approval or a grading or sedimentcontrol permit, or who has received the approval of a forest stand delineation or forest conservation plan.

APPROVED FOREST MANAGEMENT PLAN — A document:

(1) Approved by the Department of Natural Resources forester assigned to the Town in which theproperty is located; and

(2) Which operates as a protective agreement for forest conservation as described in the NaturalResources Article, § 5-1607(e) through (f), Annotated Code of Maryland.

BOARD OF APPEALS — The Board of Appeals of the Town of Denton, as established in theDenton Zoning Ordinance.

CALIPER — The diameter measured at two inches above the root collar.

CHAMPION TREE — The largest tree of its species within the United States, the state, county, or town.

COMMERCIAL AND INDUSTRIAL USES — Manufacturing operations, office complexes, shopping centers, and other similar uses and their associated storage areas, yarding, and parking areasand corresponds to the Denton Zoning Ordinance district classifications GC, CBC, CM, RHC, I, andMI.

COMMERCIAL LOGGING OR TIMBER HARVESTING OPERATIONS — Cutting and removing
of tree stems from a site for commercial purposes, leaving the root mass intact.

CRITICAL HABITAT AREA — Critical habitat for an endangered species and its surroundingprotection area. A critical habitat area shall:

(1) Be likely to contribute to the long-term survival of the species;

(2) Be likely to be occupied by the species for the foreseeable future; and

(3) Constitute habitat of the species, which is considered critical under Natural Resources Article,
§§ 4-2A-04, and 10-2A-06, Annotated Code of Maryland.

CRITICAL HABITAT FOR ENDANGERED SPECIES — A habitat occupied by an endangered

species as determined or listed under Natural Resources Article, §§ 4-2A-04, and 10-2A-04, Annotated Code of Maryland.

DECLARATION OF INTENT —

(1) A signed and notarized statement by a landowner or the landowner's agent certifying that theactivity on the landowner's property:

(a) Is for certain activities exempted under this chapter or Natural Resources Article, §§ 5-103and 5-1601 through 5-1612, Annotated Code of Maryland;

(b) Does not circumvent the requirements of this chapter or Natural Resources Article,
§§ 5-103 and 5-1601 through 5-1612, Annotated Code of Maryland; and

(c) Does not conflict with the purposes of any other declaration of intent; or

(2) The document required under COMAR 08.19.01.05 or this chapter.

DEPARTMENT — The Denton Department of Planning and Codes Administration.

DEPARTMENT OF NATURAL RESOURCES (DNR) — A Maryland government agency that ischarged with maintaining natural resources.

DEVELOPMENT PROJECT — The grading or construction activities occurring on a specific tractthat is 40,000 square feet or greater in disturbance. "Development project" includes redevelopment.

DEVELOPMENT PROJECT COMPLETION — For the purposes of afforestation, reforestation, orpayment into a fund:

(1) The release of the development bond, if required;

(2) Acceptance of the project's streets, utilities, and public services by the Town of Denton; or

(3) Designation by the Town of Denton or State of Maryland that:

(a) A development project has been completed; or

(b) A particular stage of a staged development project, including a planned unit development,has been completed.

DIRECTOR OF PLANNING — Director of Planning and Codes Administration.

FOREST — A biological community dominated by trees and other woody plants covering a land areaof 10,000 square feet or greater. "Forest" includes areas that have at least 100 live trees per acre withat least 50% of those trees having a two-inch or greater diameter at 4.5 feet above the ground and larger; and areas that have been cut but not cleared. "Forest" does not include orchards.

FOREST CONSERVANCY DISTRICT BOARD — The Forestry Board created for each state forestry conservancy district under Natural Resources Article, §§ 5-601 through 5-610, Annotated

Code of Maryland.

FOREST CONSERVATION — The retention of existing forest or the creation of new forest at the levels set by the Town.

FOREST CONSERVATION AND MANAGEMENT AGREEMENT — An agreement, as stated inthe Tax-Property Article, § 8-211, Annotated Code of Maryland.

FOREST CONSERVATION PLAN — A plan approved pursuant to Natural Resources Article, §§ 5-1606 and 5-1607, Annotated Code of Maryland.

FOREST CONSERVATION TECHNICAL MANUAL — The State Forest Conservation Technical Manual is hereby incorporated by reference and used to assist the Department in establishing standards for preparing forest stand delineations and forest conservation plans.

FOREST COVER — The area of a site meeting the definition of "forest."

FOREST MANAGEMENT – The planned application of silvicultural or other management practices within a forest ecosystem, conducted in accordance with a forest management plan approved by the Department or prepared by a licensed Maryland forester for the purpose of achieving specific environmental, economic, and social objectives.

FOREST MANAGEMENT PLAN — A plan establishing best conservation and management practices for a landowner in assessing forested property's resource values.

FOREST MITIGATION BANK — An area of land which has been intentionally afforested or reforested for the express purpose of providing credits for reforestation requirements.

(1) AFFORESTATION OR REFORESTATION MITIGATION BANK – An area of newly planted forest land under an approved forest mitigation bank agreement and permanently protected, for the purpose of generating credits to satisfy afforestation or reforestation requirements.

(2) QUALIFIED CONSERVATION MITIGATION BANK - An area of existing forest permanently protected through Qualified Conservation under an approved mitigation bank agreement, for the purpose of generating credits to satisfy afforestation or reforestation requirements.

FOREST MITIGATION BANK AGREEMENT — An agreement entered into by an individual owning a forest mitigation bank and the Town which commits the banker to certain procedures and requirements when creating and operating the forest mitigation bank.

FOREST MITIGATION BANK PLAN — A plan submitted for approval of a forest mitigation bankto the Town by an individual proposing to establish a forest mitigation bank.

FOREST STAND DELINEATION — The methodology for evaluating the existing vegetation on asite proposed for development, as provided in the State Forest Conservation Technical Manual.

GROWING SEASON — The period of consecutive frost-free days, as stated in the current soilsurvey for Caroline County and published by the National Cooperative Soil Survey Program, 16
U.S.C. § 590(a) – (f).

HIGH-DENSITY RESIDENTIAL AREAS — Areas zoned for densities greater than one dwelling unit per acre, including both existing and planned development and their associated infrastructures, such as roads, utilities, and water and sewer service. These areas correspond to the Denton Zoning Ordinance district classifications for all residential zones except the Agriculture District and all

properties located in the Resource Conservation Area.

INSTITUTIONAL DEVELOPMENT AREA — Schools, colleges and universities, military installations, transportation facilities, utility and sewer projects, government offices and facilities, golf courses, recreation areas, parks, and cemeteries.

INTERMITTENT STREAM — A stream in which surface water is absent during a part of the year, as shown on the most recent 7.5-minute topographic quadrangle published by the United States Geologic Survey as confirmed by field verification.

LANDSCAPING PLAN — A plan:

(1) Drawn to scale showing dimensions and details for reforesting an area at least 35 feet wide andcovering 2,500 square feet or greater in size;

(2) Using native or indigenous plants when appropriate; and

(3) Which is made part of an approved forest conservation plan.

LINEAR PROJECT — A project which:

(1) Is elongated with nearly parallel sides;

(2) Is used to transport a utility product or public service not otherwise contained in an application for a subdivision, such as electricity, gas, water, sewer, communications, trains, and vehicles; and

(3) May traverse fee simple properties through defined boundaries or established easement rights.

LOCAL AGENCY — Each unit in the executive, legislative, or judicial branch of the Townof Denton government, including all agencies and departments authorized to conduct each unit's business.

LOT — A unit of land, the boundaries of which have been established as a result of a deed or previoussubdivision of a larger parcel, and which will not be the subject of further subdivision, as definedby Natural Resources Article, § 5-1601, Annotated Code of Maryland, and this chapter without an approved forest stand delineation and forest conservation plan.

MAINTENANCE AGREEMENT — The short-term management agreement associated with afforestation or reforestation plans required under Natural Resources Article, § 5-1605, Annotated Code of Maryland, and this chapter.

MEDIUM-DENSITY RESIDENTIAL AREAS — Areas zoned for densities greater than one dwelling unit per five acres and less than or equal to one dwelling unit per acre, including both existing and planned development and their associated infrastructure, such as roads, utilities, and water and sewer service.

MINOR DEVELOPMENT PROJECT —

(1) A project on less than 5 acres of land containing not more than 4 lots per acre; or

(2) Substantively similar as defined by the Town and approved by the State.

MIXED-USE DEVELOPMENT — A single, relatively high-density development project, usually commercial that includes two or more uses.

NATURAL REGENERATION — 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.

NET TRACT AREA —

(1) Except in agriculture and resource areas, the total area of a site, including both forested and non-forested areas, to the nearest 1/10 acre, reduced by that area where forest clearing is restricted by another local chapter, program, or within the boundaries of the 100-year floodplain and/or critical areas.

(2) In agriculture and resource areas, the part of the total tract for which land use will be changed or will no longer be used primarily for agricultural activities, reduced by that area where forest clearing is restricted by another local chapter or program, or within the boundaries of the 100-year floodplain and/or critical areas; and

(3) For a linear project, the area of a right-of-way width, new access roads, and storage; or the limitsof disturbance as shown on an application for sediment and erosion control approval or in a capital improvements program's project description.

NONTIDAL WETLANDS —

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

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

(3) "Nontidal wetlands" does not include tidal wetlands regulated under Environment Article, Title 16, Annotated Code of Maryland.

OFF-SITE — Outside of the limits of the area encompassed by the tract.

ON-SITE — Within the limits of the area encompassed by the tract, including an area classified as a100-year floodplain.

PERENNIAL STREAM — A stream containing surface water throughout an average rainfall year, as shown on the most recent 7.5-minute topographic quadrangle published by the United States Geologic Survey, as confirmed by field verification.

PERSON — 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 orprivate corporation, or any of their affiliates, or any other entity.

PLANNED UNIT DEVELOPMENT — A development comprised of a combination of land uses orvarying intensities of the same land use in accordance with an integrated plan that provides flexibilityin land use design approved by the Town of Denton with at least 20% of the land permanently dedicated to open space.

PRIORITY FUNDING AREA — An area designated as a priority funding area under State Finance and Procurement Article, § 5-7b-02, Annotated Code of Maryland.

PROJECT PLAN — A construction, grading, or sediment control activity on an area of 40,000

squarefeet or greater by a local agency.

PUBLIC UTILITY — Any transmission line or electric generating station; or water, sewer, electric, gas, telephone, or television cable service line.

QUALIFIED CONSERVATION — The conservation of all or a part of an existing forest that:

(1) Has been approved by the appropriate state or local forest conservation program for the purpose of establishing a forest mitigation bank; and

(2) Is encumbered in perpetuity by a restrictive easement, covenant, or another similar mechanism recorded in the county land records to conserve its character as a forest.

REFORESTATION OR REFORESTED —

(1) "Reforestation" or "reforested" means the:

(a) Creation of a biological community dominated by trees and other woody plants containingat least 100 live trees per acre with at least 50% of those trees having the potential of attaining a 2-inch or greater diameter measured at 4.5 feet above the ground, within seven years; or

(b) Establishment of a forest according to procedures outlined in the State Forest ConservationTechnical Manual.

(2) "Reforestation" or "reforested" includes landscaping of areas under an approved landscaping plan establishing a forest at least 35 feet wide and covering 2,500 square feet or more of area.

(3) "Reforestation" or "reforested" for a linear project involving overhead transmission lines may consist of a biological community dominated by trees and woody shrubs with no minimum height or diameter criteria.

REGULATED ACTIVITY — Any of the following activities, when that activity occurs on a unit ofland which is 40,000 square feet or greater:

(1) Subdivision;

(2) Grading;

(3) An activity that requires a sediment control permit; or

(4) Project plan.

RETENTION — The deliberate holding and protecting of existing trees, shrubs, or plants on the siteas determined by the Town using this chapter as a reference tool.

SEDIMENT CONTROL PERMIT — The authorization of an activity regulated under a sediment control plan as provided in the Environment Article, Title 4, Annotated Code of Maryland.

SEEDLING — An unbranched woody plant, less than 24 inches in height and having a diameter of less than 1/2 inch measured at two inches above the root collar.

SELECTIVE CLEARING — The careful and planned removal of trees, shrubs, and plants using specific standards and protection measures under an approved forest conservation plan.

STREAM BUFFER — All lands lying within 50 feet, measured from the top of each normal bank ofa perennial or intermittent stream. For Tier 2 streams, all lands lying within 100 feet, measured fromthe top of each normal bank of a perennial or intermittent stream.

STREAM RESTORATION PROJECT — An activity that:

(1) Is designed to stabilize stream banks or enhance stream function or habitat located within an existing stream, waterway, or floodplain;

(2) Avoids and minimizes impacts to forests and provides for replanting on site an equivalent number of trees to the number removed by the project;

(3) May be performed under a municipal separate storm sewer system permit, a watershed implementation plan growth offset, or another plan administered by the state or local government to achieve or maintain water quality standards; and

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

SUBDIVISION — Any division of a unit of land into two or more lots or parcels for the purpose, whether immediate or future, of transfer of ownership, sale, lease, or development; does not include administrative subdivisions that do not create new lots.

TIMBER HARVESTING —

(1) A tree-cutting operation affecting one or more acres of forest or developed woodland within aone-year interval that disturbs 5,000 square feet or more of the forest floor.

(2) "Timber harvesting" does not include grubbing and clearing of root mass.

TRACT — Property or unit of land subject to an application for a grading or sediment control permit,subdivision approval, project plan approval, or areas subject to this chapter.

TRACT FOR A PLANNED UNIT DEVELOPMENT — The entire property subject to a plannedunit development.

TREE — A large, branched woody plant having one or several self-supporting stems or trunks thatreach a height of at least 20 feet at maturity.

VARIANCE — Relief from Natural Resources Article §§ 5-1601 – 5-1613, Annotated Code ofMaryland, or this chapter, and does not mean a zoning variance.

WATERSHED — All land lying within an area described as a subbasin in water quality regulationsadopted by the Department of the Environment under COMAR 26.08.02.08.

WHIP — An unbranched woody plant greater than 24 inches in height and having a diameter of lessthan one inch measured at two inches above the root collar.

§ 60-3. Application; exemptions; declaration of intent.

A. Applicability of this chapter. Except as provided in Subsection B of this section, this chapter applies to:

(1) A person making an application for a subdivision, project plan, grading, or sediment control approval on units of land 40,000 square feet or greater after the effective date of this chapter.

(2) A public utility not exempt under Subsection B(4) and (5) of this section.

(3) All county or municipal government units, including public works, public utility, or projects making an application for a subdivision, project plan, grading, or sediment control approval

on areas 40,000 square feet or greater.

B. Exemptions. This chapter does not apply to:

(1) Highway construction activities under Natural Resources Article, § 5-103, of the Annotated Code of Maryland.

(2) Those areas currently regulated by Natural Resources Article, §§8-1801 – 8-1817, and the Town of Denton Critical Area program (Chapter 128, Article VIII, Special District: Critical Area Overlay District), including those areas into which Critical Area forest protection measures have been extended under Natural Resources Article, § 5-1602(c), Annotated Code of Maryland.

(3) Agricultural activities not resulting in a change in land use category, including the operation of orchards and tree farms and the construction and use of agricultural support buildings and other related structures built using accepted best management practices, except that a person engaging in an agricultural activity clearing 40,000 square feet or greater of forest within a one-year period, may not receive an agricultural exemption, unless the person files a declaration of intent, as provided for in Subsection C of this section, which includes:

(a) 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

(b) A sketch map of the property which shows the area to be cleared.

(4) The cutting or clearing necessary for public utility rights-of-way licensed under Public Utility Companies Utilities Article, §§ 7-207 and 7-208 or 7-205, of the Annotated Code of the Maryland or land for electric generating stations licensed under Public Utility Companies Utilities Article, §§ 7-207 and 7-208 or 7-205, of the Annotated Code of Maryland, if:

(a) Required certificates of public convenience and necessity have been issued in accordancewith Natural Resources Article, § 5-1603(f), of the Annotated Code of Maryland; and

(b) Cutting or clearing of the forest is conducted to minimize the loss of forest.

(5) Routine maintenance or emergency repairs of public utility rights-of-way licensed under Public

Utility Companies Utilities Article, §§ 7-207 and 7-208 or 7-205, of the Annotated Code ofMaryland.

(6) Except for a public utility subject to Subsection B(5) of this chapter, routine maintenance or emergency repairs of a public utility right-of-way if the right-of-way existed before the adoptionof this chapter or was constructed under the approval of this chapter.

(7) A residential construction activity conducted on an existing single lot of any size of record at the time of application, or a linear project not otherwise exempted under this chapter, if the activity:

(a) Does not result in the cumulative cutting, clearing, or grading of more than 20,000 squarefeet of forest;

(b) Does not result in the cutting, clearing, or grading of a forest that is subject to

requirementsof a previous forest conservation plan approved under this chapter; and

(c) Is the subject of a declaration of intent filed with the Town, as provided for in Subsection C of this chapter, stating that the lot will not be the subject of a regulated activity within 5 years of the cutting, clearing, or grading of the forest;

(8) Strip or deep mining of coal regulated under Environment Article, Title 15, Subtitle 5 or 6, Annotated Code of Maryland;

(9) Noncoal surface mining regulated under Environment Article, Title 15, Subtitle 8, Annotated Code of Maryland;

(10) An activity required for constructing a dwelling intended for use by the owner or a child of the owner:

(a) If the work does not result in the cutting, clearing, or grading of more than 20,000 square feet of forest; and

(b) Is the subject of a declaration of intent, as provided for in Subsection C, which states that transfer of ownership could result in loss of exemption.

(11) A preliminary plan of subdivision or a grading or sediment control plan approved before July 1,1991;

(12) A planned unit development that, by December 31, 1991, has:

(a) Met all requirements for planned unit development approval; and

(b) Obtained initial development plan approval by the Department;

(13) 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, if:

(a) The transfer does not involve a change in land use, or new development or redevelopment,with associated land-disturbing activities; and

(b) Both the grantor and grantee file a declaration of intent, as provided for in Subsection C ofthis section.

(14) An activity on a previously developed area covered by impervious surface and located in the priority funding area;

(15) Maintenance or retrofitting of a stormwater management structure that may include clearing of vegetation or removal and trimming of trees, if the maintenance or retrofitting is within the original limits of disturbance for construction of the existing structure, or within any maintenance easement for access to the structure; or

(16) A stream restoration project, as defined in § 60-2 of this chapter, for which the applicant for a grading or sediment control permit has executed a binding maintenance agreement of at least five years with the affected property owner or owners.

(17) Commercial logging and timber harvesting operations, including harvesting, conducted subjectto the forest conservation and management program under Tax-Property Article, § 8-211, Annotated Code of Maryland, that are completed before July 1, 1991; or after July 1, 1991, ona property which:

(a) Has not been the subject of an application for a grading permit for development within fiveyears after the logging or harvesting operation; and

(b) Is the subject of a declaration of intent as provided in § 60-3(C) of this article, approvedby the Department.

(18) Forest management.

(19) Transit-oriented development, as defined under § 7-101 of the Transportation Article of the Annotated Code of Maryland, provided that the area of forest removed shall be:

(a) Reforested at a ratio of at least ¼ acre replanted for each acre removed; or

(b) Mitigated in a manner in which ½ acre of forest is permanently protected for each acre removed;

(20) The construction of a new federal government facility projected to house the employment of at least 2,500 persons; and

(21) The construction of multifamily housing, consisting of a single structure containing at least 25 dwelling units, provided that the area of forest removed shall be:

(a) Reforested at a ratio of at least ¼ acre replanted for each acre removed; or

(b) mitigated in a manner in which 1/2 acre of forest is permanently protected for each acre removed.

(22) A solarvoltaic facility granted a certificate of public convenience and necessity by the Public Service Commission under Public Utilities Article § 7-207, Annotated Code of Maryland, before July 1, 2025.

C. Declaration of intent.

(1) A statement shall be filed with the Department to verify that exempted projects under Subsection B(3), (7), (10), (13) and (17) of this section are exempt according to Natural Resources Article, §§ 5-103 and 5-1601 through 5-1613, Annotated Code of Maryland, and this chapter.

(2) A person seeking an exemption under § 60-3B(3), (7), (10), (13) and (17) of this article shall file a declaration of intent with the Department.

(3) The declaration of intent is effective for 5 years.

(4) 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:

(a) Does not conflict with the purpose of any existing declaration of intent; and

(b) Complies with the applicable requirements for an exempted activity.

(5) This declaration of intent shall be in effect for 5 years. Should a regulated activity occur within these first 5 years, the exemption is no longer valid. Noncompliance action may be taken if the Department deems this to be an appropriate action.

(6) An applicant may apply for a regulated activity on that area of the property not covered under

the declaration of intent if this chapter's requirements are satisfied.

(7) Noncompliance.

(a) A person failing to file a declaration of intent or found in noncompliance with a declarationof intent shall be required to:

[1] Meet the retention, afforestation, and reforestation requirements established in § 60-3through § 60-15. Pay a non-compliance fee of $0.30 per square foot of forest cut or cleared under the declaration of intent;

[2] Be subject to other enforcement actions appropriate under Natural Resources Article,
§§ 5-1601 through 5-1613, Annotated Code of Maryland, and this chapter; or

[3] File a declaration of intent with the Department.

(b) A penalty of $1 per square foot of cut or cleared forest may be imposed.

(8) 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 chapter.

(9) Commercial logging and timber harvesting. The requirements for a declaration of intent may besatisfied by a forest management plan for the entire tract, prepared by a forester licensed in Maryland according to Business Occupations and Professions Article, Title 7, Annotated Code of Maryland, which outlines management practices needed to meet the stated objectives for a minimum of 5 years.

(10) Agricultural activities or commercial logging and timber harvesting. A declaration of intent maybe part of an amended sediment and erosion control plan, which ensures that the activity meets the conditions for an exemption as stated in § 60-3B(3) and (17) of this chapter.

§ 60-4. General requirements.

A. Requirements. A person making an application after the effective date of this chapter for subdivisionas defined by this chapter or local agency project plan approval, a grading permit, or a sediment control permit for an area of land of 40,000 square feet or greater shall:

(1) Submit to the Department a forest stand delineation and a forest conservation plan for the lot orparcel on which the development is located; and

(2) Use methods approved by the Department, as provided in the State Forest Conservation Technical Manual, to protect retained forests and trees during construction.

B. State funds. If a local agency or person using state funds makes an application to conduct a regulatedactivity, the provisions of COMAR 08.19.04.01D through G apply.

§ 60-5. Forest stand delineation.

A. A forest stand delineation shall be submitted at concept plan or with submittal for preliminary approval of a project, before a grading permit application, or before a sediment control application issubmitted for the tract being developed.

B. The delineation shall be prepared by a licensed forester, licensed landscape architect, or a qualified professional who meets the requirements stated in COMAR 08.19.06.01A.

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

(1) A topographic map delineating intermittent and perennial streams and steep slopes over 25%;

(2) A soils map delineating soils with structural limitations, hydric soils, or soils with a soil K valuegreater than 0.35 on slopes of 15% or more;

(3) Forest stand maps indicating species, location, and size of trees and showing dominant and co- dominant forest types;

(4) Location of 100-year floodplains;

(5) Information required by the State Forest Conservation Technical Manual; and

(6) Other information the Department determines is necessary to implement this chapter.

D. If approved by the Department, a simplified delineation, a concept plan or plat, preliminary plat or plan, sediment control plan, or another appropriate document, verified by a site visit, if appropriate, may be submitted for an area:

(1) When no forest cover is disturbed during a construction activity; and

(2) The area is designated to be under a long-term protective agreement.

E. The Department shall consider a simplified forest stand delineation complete if it includes:

(1) All requirements under Subsection C(1), (2), (4), (5) and (6) of this section;

(2) A map showing existing forest cover as verified by field inspection.

(3) Other information required by this chapter.

F. An approved forest stand delineation may remain in effect for a period not longer than five years.

G. Time for submittal.

(1) Within 30 calendar days after receipt of the forest stand delineation, the Department shall notifythe applicant whether the forest stand delineation is complete and correct. Notice is not an approval.

(2) If the Department fails to notify the applicant within 30 days, the delineation shall be deemed complete and correct.

(3) The Department may require further information or provide for an additional 15 calendar days at any time during the initial thirty-day period if extenuating circumstances exist.

§ 60-6. Forest conservation plan.

A. General provisions.

(1) In developing a forest conservation plan, the applicant shall prioritize techniques for retainingexisting forest on the site.

(2) If existing forest on the site cannot be retained, the applicant shall demonstrate to the satisfactionof the Department:

(a) How techniques for forest retention have been exhausted;

(b) Why the priority forests and priority areas, as specified by Natural Resources Article,
§ 5-1604(c)(1), Annotated Code of Maryland, cannot be left in an undisturbed condition:

[1] If priority forests and priority areas cannot be left undisturbed, how the sequence forafforestation or reforestation will be followed in compliance with Natural Resources Article, § 5-1607, Annotated Code of Maryland;

[2] Where on the site in priority areas afforestation or reforestation will occur in compliance with Natural Resources Article § 5-1607, Annotated Code of Maryland;and

(c) How the disturbance to the priority forests and priority areas specified in Natural Resources Article, § 5-1607(c)(2), Annotated Code of Maryland, qualifies for a variance.

(3) The applicant shall demonstrate to the satisfaction of the Department that the requirements for afforestation or reforestation on-site or off-site cannot be reasonably accomplished if the applicant proposes to make a payment into the local Forest Conservation Fund instead of or in addition to afforestation or reforestation or to purchase credits from a forest mitigation bank.

(4) Nontidal wetlands. A regulated activity within the net tract area that occurs wholly or partly in areas regulated as nontidal wetlands under Environment Article, Title 5, Annotated Code of Maryland is subject to both the nontidal wetlands regulatory requirements and the requirementsof this law, subject to the following:

(a) Any forest area in the net tract area, including forest in nontidal wetlands that is retained, shall be counted towards forest conservation requirements under this chapter.

(b) For the purpose of calculating reforestation mitigation under this chapter, a forested nontidal wetland permitted to be cut or cleared and required to be mitigated under Environment Article, Title 9, Annotated Code of Maryland, shall be shown on the forest conservation plan and subtracted on an acre-for-acre basis from the total amount of forestto be cut or cleared as part of a regulated activity.

(c) Nontidal wetlands shall be considered to be priority areas for retention and replacement.

(d) Forested nontidal wetland identification and delineation should be included at the earliest stage of planning to help the applicant avoid and reduce impacts to the nontidal wetlands and avoid delays in the approval process.

B. Preliminary forest conservation plan.

(1) A preliminary forest conservation plan shall be prepared by a licensed forester, a licensed

landscape architect, or a qualified professional who meets the requirements stated in COMAR 08.19.06.01A.

(2) A preliminary forest conservation plan shall:

(a) Be submitted with the preliminary plan of subdivision or proposed project plan;

(b) Include the approved forest stand delineation for the site; and

(c) Include a table that lists the following, in square feet:

[1] Net tract area;

[2] Area of forest conservation required; and

[3] Area of forest conservation that the applicant proposes to provide, including both on-site and off-site areas;

(d) Include a clear graphic indication of the forest conservation provided on the site, drawn to scale, showing areas where retention of existing forest or afforestation or reforestation areproposed to occur;

(e) Include an explanation of how the provisions of Subsection A of this section have been met;

(f) In the case of afforestation or reforestation, include a proposed afforestation or reforestation plan;

(g) Include a proposed construction timetable showing the sequence of forest conservation procedures;

(h) Show the proposed limits of disturbance;

(i) Show proposed stockpile areas;

(j) Incorporate a proposed two-year maintenance agreement that shows how areas designatedfor afforestation or reforestation will be maintained to ensure protection and satisfactory establishment;

(k) Other information the Department determines is necessary to implement this chapter.

(3) The preliminary forest conservation plan review shall be concurrent with the preliminary site plan review.

(4) During the different stages of the review process, the preliminary forest conservation plan may be modified, provided that the Department approves of the changes.

C. Final forest conservation plan.

(1) A final forest conservation plan shall be prepared by a licensed forester, a licensed landscape architect, or a qualified professional who meets the requirements stated in COMAR 08.19.06.01A.

(2) A final forest conservation plan shall:

(a) Be submitted along with the application for final approval of the project, including final subdivision or site plan, an application for a grading permit, or an application for a sediment control permit.

(b) Show proposed locations and types of protective devices to be used during construction toprotect trees and forests designated for conservation.

(c) In the case of afforestation or reforestation, include an afforestation or reforestation plan, with a timetable and description of needed site and soil preparation, species, size, and spacing of vegetation to be used.

(d) Incorporate a binding 2-year maintenance agreement specified in COMAR 08.19.05.01 that details how the areas designated for afforestation or reforestation shall be maintained to ensure protection and satisfactory establishment, including:

[1] Watering; and

[2] A reinforcement planting provision if survival rates fall below required standards, as provided by the State Forest Conservation Technical Manual;

(e) Incorporate a long-term binding protective agreement as specified in COMAR 08.19.05.02that:

[1] Protects areas of forest conservation, including areas of afforestation, reforestation, and retention; and

[2] Limits uses in forest conservation areas to those designated and consistent with forest conservation, including recreational activities and forest management practices usedto preserve forest.

(f) Include the substantive elements required under Subsection B(2)(b) through (e), (g) through (i), and (k) of this section, as finalized elements of the forest conservation plan.

(g) Be submitted as a hardcopy and in a GIS-compatible format.

(h) Other information the Department determines is necessary to implement this chapter.

(3) Time for submittal and Public Notice and Review Requirements.

(a) At least 20 days before approval of the forest conservation plan, the Department shall:

[1] Provide notice that is consistent with local authority notice requirements to all property owners abutting and adjacent to the boundary of the subject property of any proposed clearing of a priority retention area as described in Natural Resources Article § 5-1607(C), Annotated Code of Maryland; and

[2] On a net tract area of at least 5 acres and if at least 75 % of the property retention area is proposed to be cleared:

i. Provide a reasonable opportunity for written and verbal comment before plan approval; or

ii. For any other project where priority retention area is proposed for clearing, provide a reasonable opportunity for public written comment before plan approval.

(b) Property separated from the subject property by a public right-of-way shall be considered abutting and adjacent.

(c) Within 45 calendar days after receipt of the final forest conservation plan, the Departmentshall notify the applicant whether the forest conservation plan is complete and approved.

[1] If the Department fails to notify the applicant within 45 calendar days, the plan shall be treated as complete and approved.

[2] The Department may require further information or extend the deadline for an additional 15 calendar days should extenuating circumstances occur for the Department or the applicant.

[3] At the applicant's request and under extenuating circumstances, the Department may extend the deadline.

(4) The review of a final forest conservation plan shall be concurrent with reviewing the final subdivision or project plan, grading permit application, or sediment control application associated with the project.

(5) Revocation.

(a) 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 the site's condition necessitate the preparation of a new or amended plan.

(b) Before revoking approval of a forest conservation plan, the Department shall notify the violator in writing and provide an opportunity for a hearing before the Denton Town Council.

(c) The Department may issue a stop work order against a person who violates a provision of this Chapter or a regulation, order, approved forest conservation plan, or maintenance agreement.

(6) Judicial Review.

(a) A person petitioning for judicial review of an approved forest conservation plan shall file the petition in accordance with the Maryland Rules not later than 30 days after approval of the Forest Conservation plan.

(b) Any judicial review of a Forest conservation plan shall be:

[1] Conducted in accordance with the Maryland Rules; and

[2] Limited to the record compiled by the Department or the local authority.

§ 60-7. Afforestation and Retention.

A. Afforestation requirement. A person making an application after the effective date of this chapter for

a subdivision or concept plan approval, a grading permit, or a sediment control permit for an area ofland of 40,000 square feet or greater, shall:

(1) Conduct afforestation on a lot having less than 20% of its net tract area in forest cover. Afforestation up to at least 20% of the net tract area shall be required for the following land usecategories:

(a) Agriculture and resource areas; and

(b) Medium density residential areas;

(2) Conduct afforestation on a lot having less than 15% of its net tract area in forest cover. Afforestation up to at least 15% of the net tract area shall be required for the following land usecategories:

(a) Institutional development areas;

(b) High-density residential areas;

(c) Mixed-use and planned unit development areas; and

(d) Commercial and industrial use areas;

(3) Comply with the following when cutting into forest cover that is currently below the afforestation percentages described in Subsection A(1) and (2) above.

(a) The required afforestation level shall be determined by the amount of forest existing beforecutting or clearing begins; and

(b) Forest cut or cleared below the required afforestation level shall be reforested or afforestedat a two-to-one ratio and added to the amount of afforestation necessary to reach the minimum required afforestation level, as determined by the amount of forest existing before cutting or clearing began.

(4) Upon meeting the afforestation requirements in this section, all unforested riparian buffers on site shall be afforested, unless the applicant demonstrates to the Department that afforestation in the riparian buffer: (1) would be in conflict with allowable uses as established for the riparian buffer; (2) is located on park property and conflicts with the park's documented mission or stewardship practices; or (3) is not suitable for the establishment and retention of the required planting materials, in which case substitute environmental protection measures must be implemented.

B. Retention. The following trees, shrubs, plants, and specific areas are considered a 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 reasonable efforts have been made to protectthem, and the plan cannot be reasonably altered:

(1) Trees, shrubs, and plants located in sensitive areas, including the 100-year floodplain, intermittent streams and their buffers of at least 50 feet from the stream channel, perennial streams and their buffers of at least 100 feet from the stream channel, coastal bays and their buffers,

steep slopes,nontidal wetlands, and critical habitats;

(2) Contiguous forest that connects the largest undeveloped or most vegetated tracts of land withinand adjacent to the site;

(3) Forest suitable for forest interior-dwelling species;

(4) Forest located in a Tier II or Tier III high quality watershed as identified by the Department of the Environment;

(5) Forest located in a water resource protection zone, a reservoir watershed, or a wellhead protection area as identified by a local jurisdiction; and

(6) Forests in urban areas:

(a) As delineated in the priority urban forest mapping included in the State Forest Conservation Technical Manual requirements; or

(b) That are most important for providing wildlife habitat or mitigating flooding, high temperatures, or air pollution.

C. Retention requiring a variance. The following trees, shrubs, plants, and specific areas are considered a priority for retention and protection. They shall be left in an undisturbed condition unless the applicant has demonstrated, to the Department's satisfaction, that the applicant qualifies for a varianceper § 60-16 of this chapter.

(1) Trees, shrubs, or plants determined to be rare, threatened, or endangered under:

(a) The federal Endangered Species Act of 1973 in 16 U.S.C. §§ 1531 through 1544 and in 50CFR 17;

(b) The Maryland Nongame and Endangered Species Conservation Act, Natural Resources Article, §§ 10-2A-01 through 10-2A-09, Annotated Code of Maryland; and

(c) COMAR 08.03.08.

(2) Trees that:

(a) Are part of an historic site, are associated with an historic structure; or

(b) Have been designated by the state as a national, state, county, or Town Champion tree; and

(3) Any tree having a diameter measured at 4.5 feet above the ground of:

(a) 30 inches or more; or

(b) 75% 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. (1) The Department shall issue written findings and a justification for any clearing of a priority retention area described in paragraph (B) or (C) of this subsection.

(2) Any judicial review of a final determination made under this paragraph shall be:

(a) Conducted in accordance with the Maryland Rules; and

(b) Limited to the record compiled by the Department.

§ 60-8. Reforestation

A. Subject to Natural Resources Article § 5-1606.1, Annotated Code of Maryland:

(1) Except as provided in item (2) of this paragraph, for all existing forest cover measured to the nearest 1/10 acre cleared on the net tract area, the area of forest removed shall be reforested at a ratio of 1 acre planted for each acre removed; and

(2) For all existing forest cover located in a priority funding area designated under State Finance and Procurement Article § 5-7B-03, Annotated Code of Maryland, and not identified as a priority for retention as described in Natural Resources Article § 5-1607(C), annotated Code of Maryland, measured to the nearest 1/10 acre cleared on the net tract area, the area of forest removed shall be reforested at a ratio of 1/2 acre planted for every 1 acre removed.

B. Upon meeting the reforestation and afforestation requirements in this section, all unforested riparian buffers on site shall be afforested and reforested, unless the applicant demonstrates to the Department that afforestation in the riparian buffer:

(1) Would be in conflict with allowable uses as established for the riparian buffer;

(2) Is located on park property and conflicts with the mission and established stewardship practices of the park; or

(3) Is not suitable for the establishment and retention of the required planting materials, in which case substitute environmental protection measures must be implemented.

§ 60-9. Priorities and Time Requirements for Afforestation and Reforestation.

Sequence for afforestation and reforestation.

A. After techniques for retaining existing forest on the site have been exhausted, the preferred sequencefor afforestation and reforestation is as follows:

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

(2) On-site afforestation or reforestation, if economically feasible, using transplanted or nursery stock that is greater than 1.5 inches in diameter measured at 4.5 feet above the ground;

(3) On-site afforestation or reforestation, using whip and seedling stock;

(4) Off-site afforestation or reforestation, using transplanted or nursery stock that is greater than 1.5inches in diameter measured at 4.5 feet above the ground in areas designated by the Department.Afforestation may be accomplished with street tree plantings;

(5) Off-site afforestation or reforestation, using transplanted or nursery stock that is greater than 1.5inches in diameter measured at 4.5 feet above the ground;

(6) Off-site afforestation or reforestation, using whip and seedling stock;

(7) Off-site afforestation or reforestation, using qualified conservation completed in a forest

mitigation bank.

(8) Planted green infrastructure or planted environmental site design practices established beyond the amount required under the Environment Article §4-203.

(9) Natural regeneration on-site; and

(10) Natural regeneration off-site.

(11) When all other options, both on-site and off-site, have been exhausted, landscaping of areas under an approved landscaping plan which establishes a forest that is at least 35 feet wide and covering 2,500 square feet or more of the area;

B. During site or subdivision plan review, a sequence other than the one described in Subsection A maybe used to achieve the objectives of land use plans or land use policies to take advantage of opportunities to consolidate forest conservation efforts.

C. Off-site afforestation or reforestation may include the use of forest mitigation banks, which have beenso designated in advance by the Department.

D. The use of qualified conservation completed in a forest mitigation bank pursuant to § 60-9(A)(7) may be used to meet:

(1) Up to 50% of the afforestation or reforestation requirement, in which case, the afforestation or reforestation credit granted may not exceed 50% of the forest area encumbered in perpetuity.

E. The following are considered priorities for afforestation and reforestation:

(1) Those techniques that enhance existing forest and involve selective clearing or supplemental planting on-site;

(2) On-site afforestation or reforestation where the retention options have been exhausted, using methods selected in accordance with Subsection F of this section, and the location being selected in accordance with this subsection; and

(3) Off-site afforestation or reforestation in the same watershed or in accordance with an approved master plan where the applicant has demonstrated that no reasonable alternative on-site exists, or where:

- Any on-site priority areas for afforestation or reforestation have been planted in accordance with this subsection; and
- The applicant has justified to the Department's satisfaction that environmental benefits associated with off-site afforestation or reforestation exceed those derived from on-site planting

F. Standards for meeting afforestation or reforestation requirements shall be established using one or more of the following methods:

(1) Establishing or enhancing forest buffers adjacent to intermittent and perennial streams, and coastal bays and their buffers, to widths of at least 50 feet and 100 feet for Tier 2 streams.

(2) Establishing or enhancing nonforested areas on 100-year floodplains, when appropriate.

(3) Establishing or increasing existing forested corridors to connect existing forests within or

adjacent to the site. Forested corridors should be a minimum of 300 feet in width to facilitate wildlife movement whenever practical.

(4) Establishing or enhancing forest buffers adjacent to critical habitats, where appropriate.

(5) Establishing plantings to stabilize slopes of 25% or greater and slopes of 15% or greater with asoil K value greater than 0.35, including the slopes of ravines or other natural depressions.

(6) Establishing buffers adjacent to differing land use areas, when appropriate, or adjacent tohighways or utility rights-of-way.

(7) Establishing forest areas adjacent to existing forests to increase the overall area of contiguousforest cover, when appropriate.

(8) Using native plant materials for afforestation or reforestation, when appropriate.

G. A person required to conduct afforestation or reforestation under this section shall accomplish it within one year or two growing seasons, whichever is a greater time period. The time begins at projectcompletion, which shall be determined by the Department.

H. In addition to any required reforestation and afforestation, all unforested riparian buffers on the site shall be afforested or reforested, except as provided under Natural Resources Article §5-1606(b)(2).

§ 60-10. Payment into Forest Conservation Fund in lieu of afforestation and reforestation.

A. There is established a Denton Forest Conservation Fund.

B. A person subject to this chapter shall contribute money into the Denton Forest Conservation Fund if that person demonstrates to the satisfaction of the Department:

(1) The requirements for reforestation and afforestation on-site and off-site cannot be reasonably accomplished; and

(2) Appropriate credits generated by a forest mitigation bank in the Town, county, or watershed arenot available.

C. For a project inside a priority funding area, as defined in Natural Resources Article, § 5-1610, Annotated Code of Maryland, the contribution shall be at a rate of $1.50 per square foot of the areaof required planting. The amount shall be adjusted for inflation as determined by the Department annually; and

D. For a project outside a priority funding area, the contribution shall be at a rate of $1.80 per square foot of the area of required planting. The amount shall be 20% higher than the rate established for a project inside a priority funding area and adjusted for inflation as determined by the Department annually.

E. Money contributed in lieu of afforestation or reforestation under this section shall be paid when the Town approves the development project.

F. The Town shall accomplish the reforestation or afforestation for which the money is deposited withintwo years or three growing seasons, whichever is a greater time period, after receipt of the

money.

G. Money deposited in the Denton Forest Conservation Fund:

(1) May be spent on the costs directly related to reforestation and afforestation, including site identification, acquisition, preparation, maintenance of existing forests, and achieving urban canopy goals;

(2) Shall be deposited in a separate forest conservation fund; and

(3) May not revert to the general fund.

H. Sites for afforestation or reforestation using Fund money.

(1) Except as provided in Subsection G(2), the reforestation or afforestation requirement under thischapter shall occur in Denton and watershed in which the project is located; except

(2) If the reforestation or afforestation cannot be reasonably accomplished in Denton, then the reforestation or afforestation shall occur in the county or watershed in which the project is located.

I. The Department shall submit to DNR a general mitigation plan and accounting procedures and ensurethat the equivalent number of acres for which money is collected and paid into its forest conservation fund is mitigated in accordance with afforestation, reforestation, and conservation priorities and techniques authorized under Natural Resources Article § 5-1607. A summary of the mitigation plan and current accounting will be available for public review and annually posted on the Town webpage.

§ 60-11. Payment by credits from a forest mitigation bank.

Use of a forest mitigation bank.

A. If a person subject to this chapter demonstrates to the Department's satisfaction that requirements forreforestation or afforestation on-site or off-site cannot be reasonably accomplished, the person may contribute credits from a forest mitigation bank. A credit is required for each 1/10 acre of an area of required planting.

B. The credits shall be debited from an approved forest mitigation bank within 90 calendar days after development project completion.

C. Forest Mitigation Banks that utilize newly planted forest may be used to meet up to 100% of the required afforestation or reforestation for a given project.

D. Use of Qualified Conservation

(1) Qualified Conservation may be used to satisfy up to 50% of the required afforestation or reforestation, provided that the afforestation or reforestation credit granted does not exceed 50 percent of the forest area encumbered in perpetuity.

(2) Qualified Conservation may be used to satisfy up to 60% of the required afforestation or reforestation if approved by the Department of Natural Resources, provided that the afforestation or reforestation credit granted shall not exceed 50% of the forest area encumbered in perpetuity. An application to the Department of Natural Resources for approval

of up to 60% shall be accompanied by a written justification for the increase and may only be made after the Department has provided the opportunity for public comment on the proposed increase.

(3) Any approval under subsection (2) shall be documented in the administrative record and shall include findings that the increased use of Qualified Conservation will not diminish overall forest conservation outcomes within the county.

§ 60-12. Establishing forest mitigation banks.

A. A person may create a forest mitigation bank from which applicants may purchase credits to meetthis chapter's afforestation and reforestation requirements.

B. After December 31, 2020, mitigation banks may be allowed only:

(1) If the application was submitted before December 31, 2020; or

(2) When using:

(a) Qualified conservation located in priority retention areas as identified in Natural Resources Article § 5-1607(b), Annotated Code of Maryland; or

(b) Newly planted forest located in priority afforestation or reforestation areas as identified in Natural Resources Article § 5-1607(d), Annotated Code of Maryland, or as identified in the Town of Denton Comprehensive Plan.

C. The forest mitigation bank shall:

(1) Afforest or reforest an area of land in accordance with a forest mitigation bank agreement;

(2) Be protected by an easement, deed restrictions, or covenants which require the land in the bankto remain forested in perpetuity and are enforceable by the Department and the Department of Natural Resources;

(3) Limit the use of the land in the bank to those activities which are not inconsistent with forest conservation such as recreational activities, forest management under a forest conservation and management program under Tax-Property Article, § 8-211, Annotated Code of Maryland, or activities specified in a forest management plan prepared by a licensed forester and approved bythe Department.

(4) Use native plant materials for afforestation or reforestation unless inappropriate; and

(5) Cause trees to be planted which:

(a) Establish or enhance forested buffers adjacent to intermittent and perennial streams andcoastal bays to widths of at least 50 feet;

(b) Establish or increase existing forested corridors, which, where practical, should be a

minimum of 300 feet in width to facilitate wildlife movement, to connect existing forestswithin or adjacent to the site;

(c) Establish or enhance forest buffers adjacent to critical habitats, where appropriate;

(d) Establish or enhance forested areas in 100-year floodplains;

(e) Stabilize slopes of 25% or greater;

(f) Stabilize slopes of 15% or greater with a soil K value greater than 0.35, including theslopes of ravines or other natural depressions;

(g) Establish buffers adjacent to areas of differing land use, where appropriate, or adjacent tohighways or utility rights-of-way; or

(h) Establish forest areas adjacent to existing forests to increase the overall area of contiguousforest cover, when appropriate.

D. A person proposing to create a forest mitigation bank shall submit to the Department a:

(1) Completed application on a form approved by the Department, which has been signed by an authorized individual in conformance with COMAR 08.19.04.02(I).

(2) Forest mitigation bank plan which contains a:

(a) Vicinity map of the proposed mitigation bank site;

(b) Simplified forest stand delineation which meets the criteria in COMAR 08.19.04.02;

(c) Detailed afforestation or reforestation plan, which shall include a timetable and description of the site and soil preparation needed, species, size, and spacing to be utilized, prepared by a licensed Maryland forester, a licensed landscape architect, or a qualified professional who meetsthe requirements stated in COMAR 08.19.06.01(A); and

(d) A proposed two-year maintenance agreement that:

- Sets forth how the areas afforested or reforested will be maintained to ensure protectionand satisfactory establishment;
- Complies with COMAR 08.19.04.05C(4)(a); and
- Includes watering and reinforcement planting provisions if survival falls below requiredstandards;

(3) Copy of the deed to the property;

(4) Survey or other legally sufficient description of the bank site for inclusion in the deeds of easement, deed restrictions, or covenants.

(5) Title report or other assurance that:

(a) The property is not encumbered by any covenants or other types of restrictions whichwould impair the property's use as a forest mitigation bank; and

(b) There is legally sufficient access to the forest mitigation bank site which can be used bythe Department and its assignees to inspect the forest mitigation bank; and

(6) Description of the system to be used by the person owning and operating the forest mitigation bank to identify and keep track of which portions of the bank have been debited to meet an applicant's off-site afforestation or reforestation requirements.

E. The owner of an approved forest mitigation bank shall enter into an agreement with the Town whichcontains:

(1) The approved reforestation or afforestation plan;

(2) The approved system for marking and tracking which portions of the bank have been debited; and

(3) An acknowledgment that the bank may not debit any portion of the afforested or reforested landuntil 2 years of successful growth has been achieved unless the banker has posted a bond or alternate security form.

§ 60-13. Forest Mitigation Bank – Qualified Conservation.

A. A person may create a forest mitigation bank that retains existing forest from which applicants may purchase Qualified Conservation credits toward the requirements of this Chapter.

B. Retention of existing forest through the establishment of Qualified Conservation banks shall be located in priority areas for retention pursuant to Natural Resources Article §5-1607(c).

C. The Qualified Conservation bank shall:

a. Consist of existing forest as defined in Natural Resources Article § 5-1601;

b. Be protected by a conservation easement, deed restriction, or covenant that:

i. Requires the land in the bank to remain forested in perpetuity;

ii. Prohibits clearing, grading, or conversion of forest except as authorized under an approved forest management plan; and

iii. Is enforceable by the Department or the Department of Natural Resources pursuant to Natural Resources Article § 5-1610.1;

c. Limit the use of the land in the bank to activities not inconsistent with forest conservation and permitted under a forest management plan.

d. Not generate credits for forest that is already permanently protected under a recorded conservation easement.

D. A person proposing to create a Qualified Conservation bank shall submit to the Department a:

a. Completed application on a form approved by the Department of Natural Resources which has been signed by a licensed Maryland forester, licensed landscape architect, or Qualified Professional;

b. Qualified Conservation mitigation bank plan which contains the following:

i. Vicinity map of the proposed mitigation bank site;

ii. Simplified forest stand delineation; which meets the criteria in COMAR 08.19.04.02;

1. Documentation demonstrating the site's location within a Priority Area for Retention pursuant to Natural Resources Article § 5-1607(c);

2. A proposed conservation easement, deed restriction, or covenant meeting the requirements of COMAR 08.19.05.02; and

3. A forest management plan;

c. Copy of the deed to the property;

d. Survey or other legally sufficient description of the bank site for inclusion in the deeds

of easement, deed restrictions, or covenants;

e. Title report or other assurance that:

i. The property is not encumbered by any covenants or other types of restrictions which would impair the property's use as a forest mitigation bank;

ii. There is legally sufficient access to the bank site which can be used by the Department and its assignees; and

f. Description of the system to be used by the person owning and operating the Qualified Conservation bank to identify and keep track of which portions of the bank have been debited to meet an applicant's offsite afforestation or reforestation requirements; and

E. The owner of an approved Qualified Conservation bank shall enter into an agreement with the Department which contains:

a. The approved Qualified Conservation mitigation bank plan;
b. The approved system for marking and tracking which portions of the bank have been debited;
c. Confirmation that no credits may be debited until the required conservation easement, deed restriction, or covenant has been executed and recorded in the land records; and
d. Provisions for long-term inspection, enforcement, and stewardship of the protected forest.

F. Credit Use and Limitations.

a. Qualified Conservation credits may be used to satisfy up to 50% of an applicant's afforestation or reforestation requirement.

b. If a local jurisdiction proposes, and after public comment the Department approves a written justification, Qualified Conservation credits may satisfy up to 60% of the requirement.

Credits may not be debited until the conservation easement, deed restriction, or covenant has been executed and recorded.

c. Credit ratios to be applied for Qualified Conservation credits are set forth in the State Forest Conservation Technical Manual.

§ 60-14. Recommended tree species.

A. Tree species used for afforestation or reforestation shall be native to the area, when appropriate, and selected from a list of approved species by the District Forester for DNR and approved by the Department.

§ 60-15. Financial security for afforestation and reforestation.

A. A person required to conduct afforestation or reforestation under this chapter shall furnish financial security in the form of a bond, an irrevocable letter of credit, or other security approved by the Town. The surety shall:

(1) Assure that the afforestation, reforestation, and the associated maintenance agreement areconducted and maintained per the approved forest conservation plan;

(2) Be in an amount equal to 110% of the estimated cost, as determined by the Department, of afforestationand reforestation; and

(3) Be in a form and of a content approved by the Department.

B. After one growing season, the person required to file a bond under Subsection A of this section may request a reduction of the amount of the bond or other financial security by submitting a written request to the Department with a justification for reducing the bond or other financial security amount, including estimated or actual costs to ensure afforestation or reforestation requirements are met.

C. The Department shall determine whether a lesser amount is sufficient to cover the cost of afforestation or reforestation, taking into account the following:

(1) The number of acres;

(2) The proposed method of afforestation or reforestation;

(3) The cost of planting or replacement materials;

(4) The cost of maintenance of the afforestation or reforestation project; and

(5) Other relevant factors.

D. If, after two growing seasons, the plantings associated with the afforestation or reforestation meet or exceed the State Forest Conservation Technical Manual standards, the amount of the cash bond, letter of credit, surety bond, or other security shall be returned or released.

§ 60-16. Standards for protecting trees from construction activities.

A. Protection devices. The Town shall adopt standards for the protection of trees from construction activity. Before cutting, clearing, grading, or construction begins on a site for which this chapter requires a forest conservation plan; the applicant shall demonstrate to the Town that protective devices have been established to the Town's satisfaction for retention areas.

§ 60-17. Variance procedures.

A. A person may request a variance from this chapter or the requirements of Natural Resource Article, §§ 5-1601 through 5-1613, Annotated Code of Maryland, if the person demonstrates that enforcement would cause practical difficulty as demonstrated by law or would result in unwarranted hardship to the person.

B. The Board of Appeals of the Town of Denton, as established in the Denton Zoning Ordinance, is authorized to grant variances and hear appeals from administrative decisions as provided in this chapter.

C. An applicant for a variance shall:

(1) Describe the special conditions peculiar to the property, which would cause unwarrantedhardship;

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

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

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

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

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

(7) Verify resource variance granted is the minimum necessary to afford relief; and

(8) Verify the resource variance will not adversely affect water quality.

D. The Board of Appeals shall make findings that the applicant has met Subsections A and B requirements before the Board may grant a variance.

E. Variance proceedings shall follow the process for variances outlined in the Denton Zoning Ordinance,including public notice.

F. Notice of a request for a variance shall be given by the Department to the Department of Natural Resources within 15 days of receipt of a variance request.

G. There is established by this chapter the right and authority of the Department of Natural Resources to initiate or intervene in an administrative, judicial, or other original proceeding or appeal in the state concerning approval of a variance under Natural Resources Article, §§ 5-1601 through 5-1612, Annotated Code of Maryland, or this chapter.

§ 60-18. Violations and penalties.

A. Enforcement.

(1) Sites subject to this chapter's requirements may be inspected by the Town or its duly appointedrepresentative upon notification of the owner or developer.

(2) The Department may issue a stop-work order against a person who violates any provision of this chapter, order, approved forest conservation plan, or maintenance agreement.

(3) The Town may seek an injunction requiring the person to cease and take corrective action to restore or reforest an area.

(4) 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 underthe procedures established for a zoning appeal in the Denton Zoning Ordinance.

B. Noncompliance fees.

(1) A person found to be in noncompliance with this chapter, regulations adopted under this chapter, the forest conservation plan, or the associated two-year maintenance agreement shall be assessed by the Town the penalty of $1 per square foot of the area found to be in noncompliance with required forest conservation defined herein.

(2) Money collected under Subsection B(1) shall be deposited in the Forest Conservation Fund as required by § 60-10 of this chapter and used by the Town for purposes related to this chapter's implementation.

C. Violation.

(1) In addition to the provisions under Subsection B, a person who violates a provision of this chapter, regulation, or order adopted or issued under this chapter is liable for a penalty not to exceed $1,000. Penalties may be recovered as per Chapter 20, Code of the Town of Denton.

(2) Each day a violation continues is a separate violation.

D. The Department shall provide DNR notice of an enforcement action within 15 days after the Department's commencement of enforcement.

§ 60-19. Annual report.

A. On or before March 1 of each year, the Town shall submit to the Department of Natural Resources areport on:

(1) The number, location, and type of projects subject to the provisions of this chapter;

(2) The amount and location of acres cleared, conserved, and planted, including any areas in the100-year floodplain, in connection with a development project;

(3) The amount of reforestation and afforestation fees and noncompliance penalties collected and expended, the number of acres for which the fees were collected, and the number of acres reforested, or conserved using the fees;

(4) The costs of implementing the Denton Forest Conservation Program;

(5) Location and size of all forest mitigation banks approved during the past year with a descriptionof the priority areas afforested or reforested by the bank;

(6) Number of acres debited from each forest mitigation bank since the last annual report;

(7) Forest mitigation banks inspected since the last annual report; and

(8) Number, location, and types of violations and types of enforcement activities conducted.

B. The size and location of all conserved and planted forest areas shall be submitted in an electronic geographic information system or computer-aided design format, if possible. If not possible, the location shall be given by Maryland State Plane Grid Coordinates and eight-digit subwatershed.

§ 60-20. Biennial review by the Department of Natural Resources.

A. Documentation. The Department shall submit the necessary documentation to the Department ofNatural Resources to comply with COMAR 08.19.02.04, Forest Conservation.

§ 60-21. Fees.

A. A non-refundable 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 chapter.

B. A permit fee schedule shall be established as needed by the Denton Town Council.

§ 60-22. Effective date.

This chapter is hereby enacted and becomes effective _____ ___, 2026.