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**BALTIMORE CITY COUNCIL
PUBLIC HEALTH AND ENVIRONMENT
COMMITTEE**

Mission Statement

On behalf of the Citizens of Baltimore City, the mission of the **Public Health and Environment Committee** is dedicated to safeguarding the well-being of Baltimore's residents by advancing policies that promote health equity, environmental justice, and sustainability. Recognizing the deep connection between public health and the environment, the committee works to reduce health disparities, improve access to essential services, and address climate-related challenges that impact communities.

**The Honorable Phylicia Porter
Chair**

PUBLIC HEARING

**WEDNESDAY, MAY 13, 2026
10:01 AM**

COUNCIL CHAMBERS

Bill: 26-0161

**Bill 26-0161 – Natural Resources – Forest and Tree Conservation –
Conforming Amendments**

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BILL SYNOPSIS

Committee: Public Health and Environment

Bill: 26-0161

Natural Resources – Forest and Tree Conservation – Conforming Amendments

Sponsor: *President Cohen, et al*

Introduced: *March 23, 2026*

Purpose:

FOR the purpose of amending the Forest and Tree Conservation provisions of Article 7 of the Baltimore City Code to comply with new State requirements; and providing for a special effective date.

Effective: Takes effect on July 1, 2026

Agency Reports

Law Department	Favorable/Amend
Finance Department	None as of this writing
Department of Housing and Community Development	None as of this writing
Planning Commission	Favorable/Amend
Department of Recreation and Parks	None as of this writing
Baltimore Development Corporation	None as of this writing
Commission on Sustainability	None as of this writing

Analysis

Current Law

[*Article 7 – Natural Resources of the Baltimore City Code outlines the rules, mandates and processes for “Natural Resources.”](#)

[State Law -](#)

Background

The Forest Conservation Act was signed into Maryland law in 1991. It establishes rules for development sites that minimize the loss of existing forests and replenish tree cover.

- The Maryland Forest Preservation and Retention Act (SB 526/HB 723), signed **May 8, 2023**, significantly amends the 1991 Forest Conservation Act. The Maryland General Assembly approved legislation intended to reduce the loss of forest and tree canopy statewide by establishing new standards and requirements. The Maryland's Forest Conservation Act (FCA) was significantly amended by the 2023 Forest Preservation and Retention Act (SB 526/HB 723), creating stricter standards for development to achieve a "no net loss" of forests; targeting net gains in forest acreage rather than "no net loss." Key changes include stricter reforestation ratios (2:1 or 2.5:1), mandatory reforestation for unforested stream buffers, and revised definitions of "forest land" (at least 1 acre), 120ft width. Key changes include higher replanting ratios, improved stream buffer protections, and stricter on-site retention rules, with subsequent 2024 updates (HB1511) **setting timelines for updated local ordinances by July 2025 and state regulations by July 2026.**¹

Key Aspects of the Maryland Forest Conservation Act

- **Purpose:** To integrate forest protection into the development process, prioritizing the retention of existing forests, particularly near streams and on steep slopes.
- **Applicability:** The law applies to public or private subdivisions, site plans, and grading permits affecting 40,000 square feet or more, although exemptions exist for specific activities like commercial logging or agriculture
- **Requirements:** Developers must create a Forest Stand Delineation (FSD) and a Forest Conservation Plan (FCP) for approval by local governments.
- **Mitigation:** If forests are removed, they must be replaced through onsite/offsite planting, buying credits from a forest mitigation bank, or paying into a local Forest Conservation Fund.

¹ State Law

- **2023 Updates:** Recent changes (HB723/SB528) strengthened the law by enhancing the definition of priority forests and increasing the stringency of reforestation efforts.²

Key 2023-2024 Amendments to Maryland Forest Law:

- **No Net Loss Focus:** The law seeks to achieve a net gain in forest and tree canopy across the state.
- **Increased Reforestation:** Developers must meet higher replanting ratios and restore unforested stream buffers.
- **On-site Priority:** A greater percentage of forest mitigation is required to be completed on-site rather than off-site.
- **Expanded Protections:** Stronger protections are in place for sensitive areas, including high-priority forests, large trees, and steep slopes.
- **Implementation Timelines:** The Maryland Department of Natural Resources is updating the Model Local Government Ordinance and technical manual, with local jurisdictions expected to align **their ordinances by July 1, 2025**.
- **Solar Project Impact:** Solar projects with a Certificate of Public Convenience and Necessity (CPCN) issued before July 1, 2023, are exempt from certain new reforestation requirements.³

Local Impact (Examples):

- **Montgomery County:** Implemented amendments focusing on strengthening reforestation ratios, increasing mitigation for tree removal, and requiring maintenance plans for planted areas.
- **Rockville:** Updated its ordinance to reflect state-level changes, reinforcing protections for city trees and forests.
- **Baltimore:** Operates under a 2020 updated local code that aligns with state requirements for urban forest management.⁴

Bill 26-0161, upon enactment will integrate the legislated changes in accordance with State law into the City's code along with several minor voluntary code updates to align the code with other City's policies and regulations.⁵

Per the Department of Planning, the legislation will result in operational impacts for the management of the local forest conservation program; impacts are likely to be moderate in the immediate term and minor to moderate in the long term. The department is **proposing amendments** to the bill. – *See attached report.*

The Law Department is also **proposing amendments**. *See attached report.*

Wednesday, May 13, 2026, the committee will hold a hearing on the bill.

² Ibid

³ Ibid

⁴ Ibid

⁵ Ibid and Department of Planning agency report.

Additional Information

Fiscal Note: None as of this writing

Information Source(s): Baltimore City Code, Council Bill 26-0161, State of Maryland – Law, website, and all agency reports and correspondence received as of this writing.

Analysis by: *Marguerite Currin*
Marguerite Currin
Analysis Date: May 11, 2026

Direct Inquiries to: (443) 984-3485

**PUBLIC HEALTH AND
ENVIRONMENT COMMITTEE**

26-0161

AGENCY REPORT(S)

SEE ATTACHED

CITY OF BALTIMORE

BRANDON M. SCOTT,
Mayor



DEPARTMENT OF LAW
EBONY M. THOMPSON,
CITY SOLICITOR
100 N. HOLLIDAY STREET
SUITE 101, CITY HALL
BALTIMORE, MD 21202

May 11, 2026

The Honorable President and Members
of the Baltimore City Council
Room 409, City Hall, 100 N. Holliday Street
Baltimore, Maryland 21202

Re: City Council Bill 26-0161 – Natural Resources – Forest and Tree Conservation –
Conforming Amendments

Dear President and City Council Members:

The Law Department reviewed City Council Bill 26-0161 for form and legal sufficiency. The bill amends the Forest and Tree Conservation provisions in Division IV of Article 7 of the Baltimore City Code to comply with new State law requirements. This bill would take effect on July 1, 2026.

The bill makes extensive changes to the existing provisions of Article 7 of the City Code in accordance with amendments to the Maryland Natural Resources Article of the State code which will take effect July 1, 2026. All future references to Sections of the Natural Resources Article of the State Code in this bill report reference the law that will take effect on July 1, 2026. 2023 Laws of Md., ch. 542. A local forest conservation program must meet or be more stringent than the requirements of the State Forest Conservation Act provisions in Sections 5-1601–5-1612 of the Natural Resources Article of the Maryland Code. Md. Code, Nat'l Res., §§ 5-1603(a)(2), (c)(1); Code of Maryland Regulations, ("COMAR"), 08.19.02.02A. The State has disseminated a Draft Model Ordinance for use by local forest conservation programs in updating local forest conservation law. The Draft Model Ordinance has not yet been published by the State.

The Law Department has the following required amendments for Council Bill 26-0161.

- Section 41-2, pg. 2, lines 28-29. On line 28, delete “§ 5-1601” and insert “§§ 5-1601-5-1612”. On line 29, Add “AND CODE OF MARYLAND REGULATIONS 08.19.01.03” following the word “ARTICLE”. Code of Maryland Regulations 08.19.01.03A states: “Terms used in this subtitle apply to both the local program and the State program.” Moreover, the COMAR provision contains a broader statement that terms not defined in the regulation have the meanings in Sections 5-103 and 5-1601-5-1612 of the Natural Resources Article of the Maryland Code.
- Section 41-3(f), pg. 3, lines 22-30. The definition of “Critical habitat” should be amended as follows to meet the State definition in Section 5-1601(h) of the Natural Resources Article of the Maryland Code and COMAR 08.19.01.03B(10): in line 24 on page 3 delete

the word “contributes” and insert the words “is likely to contribute”; in line 26 on page 3 delete the word “occupied” and insert the words “likely to be occupied”; and in line 27 on page 3 delete the word “or” and insert the word “and.” Line 29 of the definition references Sections 4-2A-04 and 10-2A-06 of the Natural Resources Article of the Maryland Code in accordance with the Model Forest Conservation Ordinance in COMAR 08.19.03.01 and the Draft Model Ordinance, pg. 2. However, the Law Department believes the citation to Section 4-2A-04 should be corrected to Section 4-2A-06. See Md. Code, Nat. Res. § 5-1601(h)(3). Compare Md. Code, Nat. Res. § 5-1601(i).

- Section 41-7, pgs. 10-13. On page 12 of Section 41-7(8), line 16, the word “development” should be “redevelopment.” COMAR 08.19.01.04A(15)(a); Draft Model Ordinance, pg. 9.
- Section 42-6(d), pg. 15, lines 29-32, pg. 16, lines 1-20. Section 42-6(d)(2) of Article 7 in Council Bill 26-0161 limits who is considered an abutting and adjacent property owner for purposes of receiving notice of a proposed clearing of a priority retention area. The requirements for administrative standing in Maryland are not strict, and it is generally easy to become a party to administrative proceedings. *Chesapeake Bay Foundation, Inc. v. DCW Dutchship Island, LLC*, 439 Md. 588, 599 (2014). Moreover, this limitation on who is an abutting or adjacent property owner cannot be used to determine who may have standing to seek judicial review under what would be new Section 42-6(e). City Council Bill 26-0161, pg. 16, lines 21-28. Standing is a matter to be resolved by the courts. *Matter of Carpenter*, 264 Md.App.138, 148 (2024) (quoting *Sugarloaf v. Dep't of Env't*, 344 Md. 271, 290 (1996)). The limitation regarding who is an abutting or adjacent property owner results in less opportunity for challenge to the proposed clearing of a priority retention area. As a result, the Council Bill provides less protection than the State law and therefore does not meet the State standards. The bill should be amended to strike lines 18-20 on page 16.
- Section 42-6(e), pg. 16, lines 21-28. Council Bill 26-0161 provides judicial review only for an approved plan, but case law requires that judicial review be available for the decision to deny a plan. See *Chesapeake Bay Foundation, Inc. v. CREG Westport I, LLC*, 481 Md. 325, 352-53 (2022) (equating the finality of the denial of a forest conservation plan with the approval of a forest conservation plan for purposes of judicial review). To effectuate this change, strike “an approved” and “approval of the” from lines 23 and 25 on page 16 of the bill and substitute “a final decision regarding a.” This change in language provides for judicial review from a final decision regardless of whether that decision is made by the Planning Director or the Planning Commission. Under current City law in Section 4-306(a) of Article 32 of the City Code, an applicant who is aggrieved by the final decision of the Director of Planning regarding a decision under the forest conservation provisions may seek an administrative appeal from that decision to the Planning Commission.
- The City definition of Urban Forest in Section 45-4(a) is less stringent than the State standard. Accordingly, an amendment is required in line 11 on page 27 of Council Bill 26-0161 to remove the word “and” and replace it with the word “or” to meet the State standard

for urban forest subject to retention and protection. See Md. Code, Nat. Res. § 5-1607(c)(1).

- The standards in Section 45-4(b)(2) of Article 7 on City Council Bill 26-0161, pg. 27, lines 21-31, pg. 28, lines 1-7 differ from the variance standards set forth in Section 47-3 of Article 7 of the City Code and the Draft Model Ordinance, pg. 25. Additionally, the requirement to obtain written approval from the Director of Planning for the plants and areas identified in Section 45-4(c)(1) and (2) does not reference the requirement that an applicant demonstrate that they would qualify for a variance. Accordingly, an amendment is required to the bill on page 28, line 31. Delete the words “ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION” on line 31 and insert the words “FOR A VARIANCE UNDER SUBTITLE 47 {VARIANCES} OF THIS DIVISION IV.” The procedure in Section 45-4(d)(2)(iii) (City Council Bill 26-0161, pg. 29, lines 4-6) requiring an applicant to actually receive a variance for clearing the trees identified in Section 45-4(c)(3) is more stringent than State law.
- Section 45-6(b), pg. 30, lines 7-17. Section 45-6(b) discusses the procedure for review of a plan to clear a priority retention area. Section 45-6(b)(1) requires that prior to approving the clearing of a priority retention area and the associated forest conservation plan the Department will seek the State’s review and input. Section 45-6(b)(2) provides that the Department, after reviewing the State’s materials, shall issue a final determination of approval or denial of the proposed clearing of a priority retention area. Section 42-6(d) on pages 15-16 of the bill requires that notice and an opportunity to comment be given 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 § 45-6. The content of Section 42-6(d) should be moved to Section 45-6, or at a minimum a reference to Section 42-6(d) should be inserted into Section 45-6.
- Section 45-6(c), pg. 30, lines 19-30. In the First Reader version of Section 45-6(c) of Article 7 in Council Bill 26-0161 an applicant may appeal a final determination by the Planning Department regarding a proposed clearing of a priority retention area to the Planning Commission, whose decision is binding and there is no further appeal. The Planning Department has proposed an amendment to Section 45-6(c) that provides that an applicant is entitled to judicial review of the Department’s final determination. This is legally required because the Supreme Court of Maryland in *Chesapeake Bay Foundation, Inc. v. CREG Westport I, LLC, supra*, 481 Md. 325, indicates that the granting of a waiver or variance permitting the removal of specimen trees is also a final decision. *Id.* at 353. Providing judicial review only to the applicant and not to a person who may be aggrieved by a final determination approving the clearing of a priority retention area is incompatible with the view of the Maryland Supreme Court in *CREG*. Thus, to meet legal sufficiency the right to seek judicial review must be provided to both an applicant and other aggrieved person and it must be provided from a final determination regarding a plan to clear a priority retention area. Under current City law in Section 4-306(a) of Article 32 of the City Code, an applicant who is aggrieved by the final decision of the Director of Planning regarding a decision under the forest conservation provisions may appeal that decision to the Planning Commission. The judicial review provision should also mirror the language

in lines 26-28 on page 16 of the bill that the judicial review will be conducted in accordance with the Maryland rules and limited to the record compiled by the Planning Department.



Subject to the foregoing required amendments, the Law Department can approve the bill for form and legal sufficiency.

Very truly yours,



Michele M. Toth
Assistant Solicitor

cc: Ebony Thompson
Council President Cohen
Council Vice President Middleton
Councilmember Gray
Councilmember Porter
Councilmember Blanchard
Councilmember Glover
Ethan Hasiuk
Nina Themelis
Ty'lor Schnella
Shamoyia Gardiner
Aaron Degraffenreidt
Hilary Ruley
Jeff Hochstetler
Ashlea Brown
Desiree Luckey
Ahleah Clark

FROM	NAME & TITLE	Eric W. Tiso,  Director of Development Oversight and Project Support	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Department of Planning 8 th Floor, 417 East Fayette Street		
	SUBJECT	City Council Bill #26-0161/ Natural Resources – Forest and Tree Conservation – Conforming Amendments		

TO

The Honorable President and
Members of the City Council
City Hall, Room 400
100 North Holliday Street

DATE: April 29, 2026

At its regular meeting of April 23, 2026, the Planning Commission considered City Council Bill #26-0161, for the purpose of amending the Forest and Tree Conservation provisions of Article 7 of the Baltimore City Code to comply with new State requirements; and providing for a special effective date.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report, which recommended amendment and approval of City Council Bill #26-0161 and adopted the following resolution:

RESOLVED, That the Planning Commission concurs with the recommendation of its departmental staff, and recommends that City Council Bill #26-0161 be **amended and approved** by the City Council. The attached amendments generally relate to the following:

- Amendment No. 1 addresses comments related to definitions that were provided in a letter from DNR dated April 14, 2026.
- Amendment No. 2 clarifies the applicant’s entitlement to seek judicial review and strikes text that stated that the determination of the Planning Commission would be final and binding.
- Amendment No. 3 strikes a mention of a specific length for a maintenance agreement, to avoid confusion with the 3-year maintenance agreement required for forest bank establishment.

If you have any questions, please contact me at eric.tiso@baltimorecity.gov or by phone at 410-396-8358.

attachment

cc: Ms. Nina Themelis, Mayor’s Office
The Honorable John Bullock, Council Rep. to Planning Commission
Mr. Justin Williams, BMZA
Mr. Geoffrey Veale, Zoning Administrator
Ms. Stephanie Murdock, DHCD
Ms. Hilary Ruley, Law Dept.
Mr. Francis Burnszynski, PABC
Mr. Luciano Diaz, DOT
Ms. Nancy Mead, Council Services



Brandon M. Scott
Mayor

PLANNING COMMISSION

Jon Laria, Chair; Eric Stephenson, Vice Chair

STAFF REPORT



Renata Southard
Acting Director

April 23, 2026

LEGISLATION: City Council Bill #26-0161:

Natural Resources – Forest and Tree Conservation – Conforming Amendments

FOR the purpose of amending the Forest and Tree Conservation provisions of Article 7 of the Baltimore City Code to comply with new State requirements; and providing for a special effective date.

RECOMMENDATION: Approval with amendments

STAFF: Amy Gilder-Busatti, Sustainability Manager, on behalf of Rachel Whiteheart, Environmental Planner

INTRODUCED BY: Council President Cohen, on behalf of the Administration (Department of Planning), cosponsored by Councilmembers Middleton, Gray, Porter, Blanchard, and Glover

COUNCIL DISTRICT: Citywide

HISTORY

The Forest Conservation Act (FCA) was signed into Maryland law in 1991. It establishes rules for development sites that minimize the loss of existing forests and replenish tree cover. The City of Baltimore has adopted local legislation in compliance with the State law, and the Department of Planning's Office of Sustainability enforces the Forest Conservation Program for development occurring within the city limits. The City's Forest Conservation Program requirements are found in Division IV of the City's Natural Resources Code and were most recently updated by Ordinance #20-401, dated September 29, 2020.

During the 2023 and 2024 legislative sessions, the Maryland General Assembly passed SB526/HB723 (2023) and HB1511 (2024), altering certain provisions in the Forest Conservation Act. Most code changes promulgated by HB1511 and SB526/HB723 will go into effect July 1, 2026, with several changes in effect as of July 1, 2024. City Council Bill #26-0161 would integrate these legislated changes into our local code, along with several minor voluntary code updates to align the code with other City policies and regulations.

This bill was also referred to the Commission on Sustainability. During their regular April meeting on Wednesday, April 15, 2026, the Commission voted in favor of approval of the bill, with 12 members voting in favor and three appointed members awaiting swearing-in abstaining.

CONFORMITY TO PLANS

The 2024 Comprehensive Master Plan for the City of Baltimore was enacted by Ordinance #24-426, dated December 2, 2024. The Plan includes several goals and measures that would be advanced through the implementation of elements of this bill:

Trees and Forests

- Goal 1: Increase the City’s tree canopy using native and heat-tolerant species in the neighborhoods experiencing frequent instances of extreme heat to reduce heat island effects.
- Goal 3: Preserve the City’s existing canopy, including street trees, forested areas, and other natural areas as a way to manage heat, water runoff, and improve overall quality of life.

The 2019 Baltimore Sustainability Plan was enacted by Ordinance #19-242, dated April 22, 2019. The plan includes several strategies and actions that would be advanced through the implementation of elements of this bill:

Nature for Nature’s Sake

- Strategy 2: Encourage and increase sustainable land management policies and practices on public and private land, taking into account the context of surrounding neighborhoods and the impacts to residents.
 - Strategy 2, Action 2: Implement invasive species management for both plants and animals in and outside of parks.
- Strategy 3: Increase the acreage of maintained and protected land.
 - Strategy 3, Action 2: Identify mechanisms to ensure protection and maintenance of habitat areas on public and private lands, in perpetuity.

Trees and Forests

- Strategy 2: Assess and manage the city’s tree canopy for long-term health.
 - Strategy 2, Action 3: Develop unified, long-term strategies to increase support and funding for managing forests and forest patches, and for planting and caring for trees.
 - Strategy 2, Action 4: Develop and implement policy to manage parks to ensure tree-protective language is placed in all contracts and plans and include best management practices and standards for invasive management, reforestation, and restoration.
- Strategy 3: Preserve the city’s existing tree canopy.
 - Strategy 3, Action 3: Investigate the creation of a forest land-banking credit program and other methods for supporting and promoting forest preservation, such as land trusts and permanent easements.

ANALYSIS AND RECOMMENDATION:

The state-legislated changes represent the most significant alteration to Maryland’s Forest Conservation regulations since the establishment of the FCA. HB1511 and SB526/HB723 require local jurisdictions to update our Forest Conservation codes by July 1, 2026.

The City also maintains the Baltimore City Supplement to the State Manual, which acts as an addendum to the State Forest Conservation Manual by altering certain sections of the State Manual to reflect City regulations. The state Forest Conservation Technical Manual was updated in December 2024. Following the City’s adoption of updates to Division IV of the City’s Natural Resources Code, the Baltimore City Supplement will also be updated to reflect the new state requirements. The code establishes the requirements for compliance with forest conservation laws. The State Manual and City Supplement provide guidance and minimum standards to be used to prepare required plans based on the conditions and requirements associated with a specific property and project scope.

Maryland’s approach to forest conservation has evolved in the 35 years since the FCA was established. The original purpose was to conserve the State's forest resources during development activities. Later, the state established a policy of no net forest loss, meaning that all forest loss should be offset through mitigation. Most recently, the passage of SB526 modified the State’s policy to “encourage the retention and sustainable management of forest lands by increasing, as measured every 4 years, the acreage of forest land in the state; increasing, as measured every 4 years, the acreage of land in the state covered by tree canopy, for land located inside an urban area and outside an urban area.” Under the bill, the Maryland Department of Natural Resources (DNR) will begin providing written notice to jurisdictions that do not maintain or expand the area of forest cover by the end of 2028 and require them to modify local afforestation, reforestation, and preservation requirements.

The Baltimore Department of Planning is the agency within City government that oversees the implementation of Baltimore’s Forest Conservation regulations. In developing the recommended combination of legislated and voluntary changes to Baltimore’s forest conservation code, staff worked to balance the inclusion of minimum updates required to meet the new standards with the inclusion of some voluntary standards and updates that will help Baltimore to achieve the goals identified in adopted plans.

The legislated changes included in City Council Bill #26-0161 are:

- **The establishment of new priority forest retention areas**, including forests located along streams and their buffers, large contiguous forests suitable for Forest Interior Dwelling Species, and urban forested areas. Urban forested areas have been defined by DNR to include almost all of Baltimore City, as delineated in [this mapping](#). Priority retention areas are forested areas that should be left undisturbed unless the applicant demonstrates, to the satisfaction of the City, that reasonable efforts have been made to protect the areas and the project cannot reasonably be altered. The bill includes the standards that must be met to demonstrate those reasonable efforts.

- **A new public notice and comment period associated with the clearing of priority retention areas.** This introduces a comment period for adjacent property owners and DNR. The Department of Planning plans to align these public notice and comment periods with those already in place for subdivision applications through the Department of Planning and projects requesting stormwater management waivers from the Department of Public Works.
- **Specifying the timeline and parameters for judicial review.** Judicial review must be conducted in accordance with the Maryland Rules and be limited to the record compiled by DNR or the Department of Planning.
- **Exempting solar-photovoltaic facilities from afforestation requirements** but not reforestation. This exemption for solar-photovoltaic facilities is the only exemption that is required to be adopted by local jurisdictions.
- **Adjustments to afforestation calculations.** SB526/HB723 (2023) eliminates afforestation requirements for some land uses and designations. City Council Bill #26-0161 proposes a more strict but less complicated framework for calculating afforestation requirements. This approach is largely unchanged from the current afforestation requirements and is being recommended to support goals and strategies included in the 2024 Comprehensive Plan and 2019 Sustainability Plan to increase the city’s tree canopy.
 - The current State Forest Conservation Technical Manual requires afforestation thresholds of 20% for areas zoned for densities lower than or equal to one dwelling unit per acre and agricultural and resource area zones or land uses. An afforestation threshold of 15% currently applies to all other zoning or land use categories.
 - The recent state code updates require the same 20% and 15% thresholds as noted previously. However, the updated state code allows for development located in Priority Funding Areas (PFAs), multi-family housing units (MHUs) with 25 or more dwellings, and transit-oriented development (TOD) to use a 0% afforestation threshold. All of Baltimore City is designated as a PFA and most of Baltimore’s current zoning allows the development of MHUs with 25 or more dwellings, dependent on lot size and bulk requirements. Reducing afforestation thresholds from 15% to 0% for large portions of the city would be in opposition to several of the goals and strategies in the City’s adopted plans.
 - The following table compares the afforestation requirements adopted under SB526/HB723 to those proposed under CCB #26-0161.

Land Use Categories	SB526/HB723 Afforestation Threshold	CCB #26-26-0161 Afforestation Threshold
Agricultural and Resource Areas & Medium Density Residential Areas (OS, R-1A and R-1B Zones)	20%	20%
Institutional, High Density Residential, Mixed-Use, Planned-Unit Development, Commercial, and Industrial Use Areas	15%	15%
Multifamily Housing Units (MHUs) with 25+ Dwellings	0%	15%
Development Located in Priority Funding Areas (PFAs)	0%	15%
Transit-Oriented Development (TOD)	0%	15%
Solar Photovoltaic Facilities	0%	0%

- **Adjustments to reforestation mitigation calculations.** SB526/HB723 (2023) changed the way that reforestation requirements are calculated. City Council Bill #26-0161 proposes a more strict but less complicated framework for calculating reforestation requirements. This approach is recommended to support goals and strategies identified in the 2024 Comprehensive Plan and 2019 Sustainability Plan to preserve existing tree and forest canopy.

 - Since the inception of the FCA, reforestation requirements were based on the concept of: 1) a “breakeven point” - the amount of forest that must be retained so that no mitigation is required, and 2) a “conservation threshold” - a threshold where mitigation requirements increase to 2:1 if forest clearing exceeds the threshold.
 - The recent state code updates require reforestation ratios of one acre mitigated through reforestation planting per acre of forest cleared (1:1) for most land use categories. The state allows a reduced reforestation ratio of ¼:1 for multi-family housing units (MHUs) with 25 or more dwellings and transit-oriented development (TOD). MHUs also have the option of retaining ½ acre of forest in permanent protection per acre of forest cleared.
 - City Council Bill #26-0161 calls for a reforestation ratio of 1:1 for all land use categories. The following table compares the afforestation requirements adopted under SB526/HB723 to those proposed under CCB #26-0161.

Land Use Categories	SB526/HB723 Reforestation Ratio	CCB #26-26-0161 Reforestation Ratio
Agricultural and Resource Areas & Medium Density Residential Areas (OS, R-1A and R-1B Zones)	1:1	1:1
Institutional, High Density Residential, Mixed-Use, Planned-Unit Development, Commercial, and Industrial Use Areas	1:1	1:1
Multifamily Housing Units (MHUs) with 25+ Dwellings	¼:1	1:1
Development Located in Priority Funding Areas (PFAs)	1:1*	1:1
Transit-Oriented Development (TOD)	¼:1	1:1
Solar Photovoltaic Facilities	1:1	1:1

* Development in PFAs can be granted a reforestation ratio of ½:1 unless also designated as Priority Retention, in which case 1:1 reforestation is required. Nearly all of Baltimore is designated as Priority Retention and would be subject to 1:1 reforestation in either case.

- **Introduction of new methods** for meeting Forest Conservation mitigation obligations, including through the restoration of degraded forests.
- **Re-legalization of qualified forest mitigation banks** to meet Forest Conservation requirements. Mitigation banks are forests established or preserved to supply credits to applicants that are unable to meet their Forest Conservation mitigation obligations through on-site plantings. There are currently no established mitigation banks in Baltimore City.

In addition to the legislated changes, the Department of Planning has recommended the inclusion of several voluntary code updates to align the Forest Conservation Program with other City policies and regulations and to enhance the City’s ability to protect trees and forests in the context of development. These voluntary updates include:

- **Removing the City’s current “dwelling house exemption,”** which allows individuals who are constructing a home for themselves or their immediate family to forgo Forest Conservation review. The removal of this from our code will align Forest Conservation review with other required City reviews (primarily Stormwater Management and Erosion & Sediment Control).
- **Adding two activities to those that are exempt from forest conservation regulations** – maintenance or retrofitting of an existing stormwater management practice, and forest management. Both exemptions have been part of the state forest conservation regulations for several years and are included in CCB #26-0161 to reduce barriers for these activities, which support improved water quality and forest health.
- **Adding several limited exemptions to the afforestation requirements.** These exemptions include linear projects, urban agriculture, and voluntary stormwater

management projects. The bill includes updated definitions and identifies uses that are subject to certain limitations or must meet certain criteria. These exemptions have been part of the state forest conservation regulations for several years and are included in CCB #26-0161 to reduce barriers for these activities.

- **Enhancing long-term protections of mitigation plantings and clarifying processes for tracking and monitoring these plantings.** Existing City policies that will be codified through the updates include replacement requirements for previous mitigation plantings that are removed or impacted and submittal requirements for mitigation planting areas to facilitate long-term tracking.
- **Re-evaluation of the City’s fee-in-lieu rates to reflect current planting and maintenance costs.** Currently, the established rates are \$600 per major tree for afforestation/reforestation mitigation and \$300 per caliper-inch for specimen tree mitigation. This bill proposes to increase these rates to \$700 per major tree and \$350 per caliper-inch, which is in alignment with the rate of inflation and current cost of materials, labor, and maintenance associated with these mitigation requirements.

Department of Planning staff have conducted an analysis of the past five years of Forest Conservation reviews and found that:

- 12% of reviewed projects involved forest clearing and would have been impacted by the new public notice and comment period requirement
- Of the 12% of reviewed projects (19 projects) involving forest clearing, only four were residential and only two of those four could be defined as Multifamily Housing Units (MHUs) with 25+ Dwellings. Both multi-family projects were able to satisfy their required mitigation on-site under the current reforestation ratios.
- 23% of projects paid a fee-in-lieu of planting

Regarding other proposed code updates, the adjusted reforestation requirement could increase development costs for some projects involving forest clearing, while the exemptions and additional tools for meeting mitigation requirements will likely decrease development costs.

The state forest conservation code allows local jurisdictions to adopt local code provisions that are more restrictive than the minimum requirements set in state code. Because Baltimore City is unique within Maryland, this provides an opportunity to customize our local program to reflect the context of the city and integrate standards and tools that help to address our specific challenges and opportunities. Baltimore’s context includes:

- A current tree canopy percentage of 20%, and a tree canopy goal of 40% by 2037
- Small but measurable tree canopy increases (1%) from 2007 to 2015
- Small but measurable loss (<1% - 143 acres) from 2018 to 2021
- Challenges to forest health from factors including invasive vegetation, disease and pests, storms, and climate pressures
- Challenges to human and environmental health from factors including climate change, urban heat island impacts, air quality, and other factors that are connected to the distribution and health our forests and tree canopy.

- Several previous analyses of tree planting feasibility related to the 40% tree canopy goal have determined that planting feasible and available sites - on public land, including along streets, in parks, and on other public properties – will not be sufficient to achieve this goal. Continued efforts to increase tree planting on public land are needed, but additional tree planting on private property will be essential to achieving this goal, particularly in neighborhoods with the lowest tree canopy percentage and high percentage of impervious surfaces.

Council Bill 26-0161 reduces barriers to solar voltaic and voluntary stormwater management projects, provides new tools to improve forest health while providing reforestation credit, retains current afforestation thresholds for nearly all land uses, and sets reforestation ratios aimed at meeting the state’s standard for retaining and growing tree and forest canopy.

Local jurisdictions are required to submit proposed updates to local forest conservation programs to DNR for review and approval to ensure that the local program meets or is more stringent than the minimum standards set in the state Natural Resources Article. The first reader for Council Bill #26-0161 was submitted to DNR for review on March 25, 2026, and DNR responded with a comment letter (provided) on April 14, 2026. The letter included four categories of recommendations. Department of Planning staff have coordinated with staff from the Department of Legislative Reference and the Law Department to reach a consensus for addressing DNR’s comments:

- **Addition to the definition of “Linear Project”**: to be addressed as part of the package of proposed amendments (Amendment No. 1).
- **Addition of definitions** for “maintenance agreement”, “lot”, “net tract”, “variance”, and “watershed”: with the exception of “variance” which is already defined, these additions are to be addressed as part of the package of proposed amendments (Amendment No. 1).
- **Recommendation to reference SB 526 5-1607(b)(2)(II)**, which allows local programs to request use of up to 60 percent instead of 50 percent credit towards required reforestation for the establishment or purchase of credits through an approved forest mitigation bank: City staff recommend against including this reference, as DNR has not established a process for submitting such a request. Including this option in our code before it has been requested or approved could generate confusion, and the code can be updated when and if such a request is submitted and approved.
- **Recommendation to add Article XVI – Annual Report and XVII – Biennial Review by the Department of Natural Resources**, sections of the state code that establish requirements for local jurisdictions to submit Annual Reports to DNR and subject local programs to biennial review by DNR: Consistent with policy decisions associated with the 2020 updates to the forest conservation code, City staff recommend against including these references, in alignment with best practices for local codes. The City is subject to and complies with annual reporting and biennial review requirements even if they are not adopted as part of the local forest conservation code. Including these provisions introduces the possibility that our local code could become out of compliance with the state code should these articles be updated in the future.

Once Council Bill #26-0161 has been adopted, Department of Planning staff will submit the enacted Ordinance to DNR for final approval.

Recommended Amendments

The Department of Planning has coordinated with the Department of Legislative Reference to recommend a series of three amendments to Council Bill #26-0161:

1. Amendment No. 1 addresses comments related to definitions that were provided in a letter from DNR dated April 14, 2026.
2. Amendment No. 2 clarifies the applicant's entitlement to seek judicial review and strikes text that stated that the determination of the Planning Commission would be final and binding.
3. Amendment No. 3 strikes a mention of a specific length for a maintenance agreement, to avoid confusion with the 3-year maintenance agreement required for forest bank establishment.

RECOMMENDATION: Staff therefore recommends that the Planning Commission adopt these findings and recommend Council Bill #26-0161 favorably, with the attached amendments recommended by the Department of Planning.

EQUITY:

Impact:

- This bill allows Baltimore City to continue to apply afforestation requirements equally while aiming to implement them equitably across the city. Development within the Critical Area, land within 1000 feet of mean high tide, is subject to nearly the same standards for afforestation. Adopting the state minimum afforestation threshold of 0% and reduced reforestation ratios for TOD, multi-family development, and projects in Priority Funding Areas could create a disparity between development within the Critical Area and development elsewhere in the city.
- The new comment period requirements for projects proposing to clear priority retention areas will encourage community engagement with and increased understanding of development proposals.
- The additional mitigation options included will provide more flexibility for projects to meet forest conservation requirements on site or off site before a fee-in-lieu could be considered, keeping the mitigation and associated benefits in closer proximity to the project site.

Engagement:

Stakeholders engaged during the development of this bill included City agency staff and local tree experts. Briefings on the code updates were presented to the Commission on Sustainability on March 18, 2026, and to the Planning Commission on April 2, 2026. Videos of both presentations were made available on the Department of Planning's YouTube channel.

Internal Operations:

The proposed legislation will result in operational impacts for the management of the local forest conservation program by Department of Planning. Impacts will likely be moderate in the immediate term and minor to moderate in the long term.

- Leading up to July 1st, staff will update public-facing documents and websites and communicate with applicants proposing projects that will be subject to the updates.
- Over the next few months, Department of Planning staff will lead the process for updating the City Supplement to the State Forest Conservation Manual to coordinate the manual with the updates to local and state code.
- After July 1st, the proposed legislation will require Department of Planning staff to coordinate a public notice and comment period for any project proposing clearing in a priority retention area.

NOTIFICATION: Staff sent notice of this action to subscribers via GovDelivery.



Renata Southard
Acting Director

**AMENDMENTS TO COUNCIL BILL 26-0161
(1st Reader Copy)**

By: Department of Planning
{To be offered to the Public Health and Environment Committee}

Amendment No. 1

On page 7, in line 4, strike “**TREE.**” and substitute “**WATERSHED.**”; and, on that same page, in line 23, strike “**AND**”; and, on that same page, in line 25, strike “**RIGHTS.**” and substitute “**RIGHTS; AND**”; and, on that same page, after line 25, insert:

“(3) THE SUBJECT PROPERTY IS ELONGATED WITH NEARLY PARALLEL SIDES.”

(E) MAINTENANCE AGREEMENT.

“MAINTENANCE AGREEMENT” MEANS A BINDING PLAN BETWEEN AN APPLICANT AND THE CITY THAT OBLIGATES THE APPLICANT TO MAINTAIN CERTAIN AREAS DESIGNATED FOR AFFORESTATION OR REFORESTATION TO ENSURE THE PROTECTION OR ESTABLISHMENT OF NEW TREE PLANTINGS, INCLUDING:

(1) WATERING; AND

(2) THE REPLACEMENT OF NEW TREE PLANTINGS TO MAINTAIN SURVIVAL STANDARDS AS ESTABLISHED BY REGULATION.

(F) NET TRACT AREA.

(1) IN GENERAL.

“NET TRACT AREA” MEANS THE TOTAL AREA OF A SITE, INCLUDING BOTH FORESTED AND NON-FORESTED AREAS, TO THE NEAREST 1/10TH AREA, REDUCED BY THAT AREA WHERE FOREST CLEARING IS RESTRICTED BY ANOTHER LAW OR PROGRAM.

(2) FOR A LINEAR PROJECT.

FOR A LINEAR PROJECT, “NET TRACT AREA” MEANS:

(1) THE WIDTH OF A RIGHT-OF-WAY AREA, INCLUDING NEW ACCESS ROADS AND STORAGE; OR

(II) THE LIMITS OF DISTURBANCE AS SHOWN ON AN APPLICATION FOR SEDIMENT AND EROSION CONTROL APPROVAL IN A CAPITAL IMPROVEMENTS PROGRAM PROJECT DESCRIPTION.”;

and, on that same page, in lines 26 and 29, strike “(E)” and “(F)”, respectively, and substitute “(G)” and “(H)”, respectively; and on page 8, in lines 1, 6, 15, 18, and 26, strike “(G)”, “(H)”, “(I)”, “(J)”, and “(K)”, respectively, and substitute “(I)”, “(J)”, “(K)”, “(L)”, and “(M)”, respectively; and, on page 9, in lines 1, 8, 11, 15, 19, and 25, strike “(L)”, “(M)”, “(N)”, “(O)”, “(P)”, and “(Q)”, respectively, and substitute “(N)”, “(O)”, “(P)”, “(Q)”, “(R)”, and “(S)”, respectively; and, on page 10, in line 1, strike “(R)” and substitute “(T)”; and, on that same page, after line 4, insert:

“(U) WATERSHED.

“WATERSHED” MEANS ALL LAND LYING WITHIN AN AREA DESCRIBED AS A SUBBASIN IN WATER QUALITY REGULATIONS ADOPTED BY THE MARYLAND DEPARTMENT OF THE ENVIRONMENT UNDER COMAR 26.08.02.08.”.

Amendment No. 2

On page 30, strike in their entirety lines 19 through 30, inclusive, and substitute:

“(1) IN GENERAL.

AN APPLICANT IS ENTITLED TO JUDICIAL REVIEW OF THE DEPARTMENT’S FINAL DETERMINATION.

(2) JUDICIAL REVIEW.

ANY JUDICIAL REVIEW OF A FINAL DETERMINATION MADE UNDER THIS SECTION SHALL BE:

(I) CONDUCTED IN ACCORDANCE WITH THE MARYLAND RULES; AND

(II) LIMITED TO THE RECORD COMPILED BY THE DEPARTMENT.”.

Amendment No. 3

On page 37, in line 12, strike “2-year”.

CITY OF BALTIMORE
COUNCIL BILL 26-0161
(First Reader)

Introduced by: The Council President

Cosponsored by: Councilmembers Middleton, Gray, Porter, Blanchard, and Glover

At the request of: The Administration (Department of Planning; Office of Sustainability)

Introduced and read first time: March 23, 2026

Assigned to: Public Health and Environment Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Department of Finance, Department of Housing and Community Development, Planning Commission, Department of Recreation and Parks, Baltimore Development Corporation, Commission on Sustainability

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Natural Resources – Forest and Tree Conservation – Conforming Amendments**

3 FOR the purpose of amending the Forest and Tree Conservation provisions of Article 7 of the
4 Baltimore City Code to comply with new State requirements; and providing for a special
5 effective date.

6 BY repealing and re-ordaining, without amendments,

7 Article 7 - Natural Resources

8 Sections 42-1, 42-2, 42-4 to 42-7, 43-3, 44-2, 44-5, 44-7, 44-8, 45-1, 45-2, 47-2, and 47-3
9 Baltimore City Code

10 (Edition 2000)

11 BY renumbering and repealing and re-ordaining, with amendments,

12 Article 7 - Natural Resources

13 Sections 41-2, 41-3 to 41-5, and 45-4, respectively
14 to be

15 Sections 41-3, 41-5 to 41-7, and 45-7, respectively

16 Baltimore City Code

17 (Edition 2000)

18 BY adding

19 Article 7 - Natural Resources

20 Sections 41-2, 41-4, and 45-3 to 45-6, the new subtitle designation, “Subtitle 46. Authorized
21 Alternatives to Afforestation, Reforestation, and Specimen Tree Mitigation”, and

22 Sections 46-1, 46-2, 48-1, 48-2, and 48-4

23 Baltimore City Code

24 (Edition 2000)

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

Council Bill 26-0161

1 BY repealing
2 Article 7 - Natural Resources
3 Subtitle 46 and the subtitle designation
4 “Subtitle 46. Forest Conservation Fund”
5 Baltimore City Code
6 (Edition 2000)

7 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That
8 Sections 41-2, 41-3 to 41-5, and 45-4, respectively, of Article 7 - Natural Resources of the
9 Baltimore City Code be renumbered to be Sections 41-3, 41-5 to 41-7, and 45-7, respectively.

10 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the Laws of Baltimore City read as
11 follows:

12 **Baltimore City Code**

13 **Article 7. Natural Resources**

14 ***Division IV: Forest and Tree Conservation***

15 **Subtitle 41. Purpose; Definitions; General Provisions**

16 **§ 41-1. Purpose.**

17 The purpose of this Division IV is to:

- 18 (1) encourage the preservation and enhancement of the City’s urban forests;
19 (2) replace and increase tree cover in non-forest areas within the City;
20 (3) establish procedures, standards and requirements that protect trees and forests during
21 and after development activity and minimize tree loss due to development activity;
22 (4) establish procedures, standards and requirements for afforestation, reforestation, and
23 specimen tree mitigation within the City; and
24 (5) meet the requirements of the Natural Resources Article, Sections 5-1601 through
25 5-1612 of the Annotated Code of Maryland.

26 **§ 41-2. DEFINITIONS – IN GENERAL.**

27 IN THIS DIVISION IV, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED; TERMS NOT
28 INCLUDED IN THIS SECTION HAVE THE MEANING AS STATED IN § 5-1601 OF THE STATE
29 NATURAL RESOURCES ARTICLE.

30 **§ 41-3. DEFINITIONS – “AFFORESTATION” THROUGH “FOREST STAND DELINEATION”.**

31 [(a) *In general.*]

32 [In this Division IV, the following terms have the meanings indicated.]

Council Bill 26-0161

1 (A) [(b)] *Afforestation.*

2 “Afforestation” means:

- 3 (1) the establishment of forest cover on an area from which it has always or very long
4 been absent, or
- 5 (2) the planting of open areas which are not presently in forest cover; and
- 6 (3) THE establishment of a forest according to procedures set forth in the [Baltimore
7 City Forest Conservation] Manual.

8 (B) [(c)] *Baltimore City Forest Conservation Manual.*

9 “Baltimore City Forest Conservation Manual” [(“Manual”)] OR “MANUAL” includes the
10 State Forest Conservation Manual and the Baltimore City Forest Conservation
11 Supplement to the State Forest Conservation Manual.

12 (C) *CHAMPION TREE.*

13 “CHAMPION TREE” MEANS THE LARGEST TREE OF ITS SPECIES WITHIN THE UNITED STATES,
14 STATE, OR CITY.

15 (d) *Clear.*

16 “Clear” means removal of any woody plant, wherein the stump and root mass are
17 physically removed.

18 (E) *COMMERCIAL LOGGING OR TIMBER HARVESTING OPERATIONS.*

19 “COMMERCIAL LOGGING OR TIMBER HARVESTING OPERATIONS” MEANS THOSE ACTIVITIES
20 THAT RESULT IN THE CUTTING AND REMOVING OF TREE TRUNKS FROM A SITE FOR
21 COMMERCIAL PURPOSES, LEAVING THE ROOT MASS INTACT.

22 (F) *CRITICAL HABITAT.*

23 “CRITICAL HABITAT” MEANS AN AREA THAT:

24 (1) CONTRIBUTES TO THE LONG-TERM SURVIVAL OF AN ENDANGERED SPECIES; AND

25 (2) THAT:

26 (I) IS OCCUPIED BY THE SPECIES, AND WILL BE FOR THE FORESEEABLE FUTURE;
27 OR

28 (II) CONSTITUTES A HABITAT FOR A SPECIES THAT IS CONSIDERED CRITICAL
29 UNDER §§ 4-2A-04 AND 10-2A-06 OF THE STATE NATURAL RESOURCES
30 ARTICLE.

Council Bill 26-0161

1 (G) [(e)] *Critical root zone.*

2 (1) *IN GENERAL.*

3 “Critical root zone” means a circular region measured outward from a tree trunk
4 representing the area of the roots that must be maintained or protected for the tree’s
5 survival.

6 (2) *MEASUREMENT.*

7 (I) Critical root zone shall be measured as [one] 1 foot of radial distance for every
8 inch of tree diameter [(DBH)] AT BREAST HEIGHT measured at 4.5 feet above the
9 ground with a minimum radius of 8 feet.

10 (II) For specimen trees the critical root zone shall be measured as 1.5 feet of radial
11 distance for every inch of tree diameter.

12 (H) [(f)] *Cut.*

13 “Cut” means the removal of a woody plant, wherein the stump and root mass remain in
14 place and intact.

15 (I) [(g)] *Declaration of intent.*

16 “Declaration of intent” means a document whose purpose is to verify that the proposed
17 activity is exempt under the provisions of the Natural Resources Article and this
18 Division IV.

19 (J) *DEGRADED FOREST.*

20 “DEGRADED FOREST” MEANS A FOREST ECOSYSTEM THAT HAS LOST ITS NATURAL
21 STRUCTURE, FUNCTION, AND DIVERSITY DUE TO HUMAN ACTIVITY OR OTHER
22 DISTURBANCES, LEADING TO DIMINISHED CAPACITY TO REGENERATE AND FUNCTION AS AN
23 ECOSYSTEM.

24 (K) [(h)] *Department.*

25 “Department” means the Baltimore City Department of Planning.

26 (L) [(i)] *Forest.*

27 (1) *IN GENERAL.*

28 “Forest” includes:

29 [(1) a biological community dominated by trees and other woody plants
30 covering a land area of 4,000 square feet or greater. This area must have a live
31 tree density of at least 100 trees per acre, with at least 50% of those trees
32 having a 2-inch or greater diameter at 4.5 feet above the ground;]

Council Bill 26-0161

1 (I) A BIOLOGICAL COMMUNITY DOMINATED BY TREES AND OTHER WOODY
2 PLANTS THAT:

3 (A) COVER A LAND AREA OF 4,000 SQUARE FEET OR GREATER; AND

4 (B) HAS A LIVE TREE DENSITY OF AT LEAST 100 TREES PER ACRE, WITH AT
5 LEAST 50% OF THOSE TREES HAVING A 2-INCH OR GREATER DIAMETER
6 AT 4.5 FEET ABOVE THE GROUND; AND

7 (II) [(2)] areas that have been cut, but not [cleared; and] CLEARED.

8 (2) [(3)] *EXCLUSION*.

9 ["forest"] "FOREST" does not include orchards or Christmas tree plantations.

10 (M) [(j)] *Forest conservation*.

11 "Forest conservation" means the retention of existing forest or the creation of new forest
12 as prescribed by the Department of Planning and the [Baltimore City Forest
13 Conservation] Manual.

14 (N) [(k)] *Forest conservation plan*.

15 "Forest conservation plan" means [a plan approved pursuant to Subtitles 42 and 44 of this
16 Division IV and the requirements of the Baltimore City Forest Conservation Manual.] A
17 PLANNING AND CONSTRUCTION DOCUMENT THAT PROVIDES SPECIFIC PLANS FOR
18 RETAINING AND PROTECTING EXISTING FORESTED AREAS.

19 (O) *FOREST CONSERVATION PROGRAM*.

20 "FOREST CONSERVATION PROGRAM" MEANS THE ADMINISTRATIVE ENTITY TASKED BY THE
21 DEPARTMENT TO PUT INTO OPERATION THE REQUIREMENTS OF THIS DIVISION IV.

22 (P) *FOREST MANAGEMENT*.

23 "FOREST MANAGEMENT" MEANS ANY HUMAN INTERVENTION IN A FOREST ECOSYSTEM
24 THAT IS:

25 (1) GUIDED BY A FOREST MANAGEMENT PLAN FOR STEWARDSHIP OF THE FOREST
26 WRITTEN BY A LICENSED FORESTER OR QUALIFIED PROFESSIONAL; AND

27 (2) INTENDED TO PRODUCE SPECIFIC ENVIRONMENTAL, ECONOMIC, OR SOCIAL
28 OBJECTIVES.

29 (Q) *FOREST MANAGEMENT PLAN*.

30 "FOREST MANAGEMENT PLAN" MEANS A SET OF GUIDELINES AND INSTRUCTIONS FOR A
31 PROPERTY OWNER TO ESTABLISH BEST CONSERVATION AND MANAGEMENT PRACTICES FOR
32 A FORESTED AREA.

Council Bill 26-0161

1 (R) *FOREST MITIGATION BANK.*

2 “FOREST MITIGATION BANK” MEANS AN AREA OF LAND THAT HAS BEEN INTENTIONALLY
3 AFFORESTED OR REFORESTED FOR THE EXPRESS PURPOSE OF PROVIDING CREDITS FOR
4 REFORESTATION REQUIREMENTS.

5 (S) [(l)] *Forest stand delineation.*

6 “Forest stand delineation” means the description of the existing vegetation on a site
7 proposed for development, prepared according to the requirements of the [Baltimore City
8 Forest Conservation Technical] Manual and this Division IV.

9 [(m) Person.]

10 [(1) In general.]

11 [“Person” has the meaning stated in § 1-107(a) {“Person: In general”} of the City
12 Code's General Provisions Article.]

13 [(2) Inclusion of governmental entities.]

14 [Notwithstanding § 1-107(b) {“Person: Exclusion”} of the General Provisions
15 Article, in this Division IV "person" also includes a governmental entity or an
16 instrumentality or unit of a governmental entity.]

17 [(n) Reforest; reforestation.]

18 [“Reforest” or “reforestation” means to create a biological community dominated by trees
19 and other woody plants containing at least 100 trees per acre with at least 50% of those
20 trees having the potential of attaining a 2-inch or greater diameter measured at 4.5 feet
21 above the ground within 5 years and includes afforestation or establishment of a forest
22 according to procedures set forth in the Baltimore City Forest Conservation Manual.]

23 [(o) Regulated activity.]

24 [“Regulated activity” means any activity subject to the requirements of § 42-1 of this
25 Division IV.]

26 [(p) Retention.]

27 [“Retention” means the deliberate holding and protecting of existing trees, shrubs, or
28 plants on the site according to established standards in the Baltimore City Forest
29 Conservation Manual.]

30 [(q) Specimen tree.]

31 [“Specimen tree” means a tree having a diameter measured at 4.5 feet above the ground
32 of 20 inches or more or trees having 75% or more of the diameter of the current state
33 champion tree of that species.]

Council Bill 26-0161

1 [(r) Tree.]

2 ["Tree" means a large, woody plant having 1 or several self-supporting stems or trunks
3 and numerous branches that reach a height of at least 20 feet at maturity.]

4 **§ 41-4. DEFINITIONS – “GRUBBING” THROUGH “TREE”.**

5 (A) *GRUBBING*.

6 “GRUBBING” MEANS THE REMOVAL OF VEGETATIVE MATTER FROM UNDERGROUND,
7 INCLUDING ROOTS AND STUMPS.

8 (B) *INTERMITTENT STREAM*.

9 “INTERMITTENT STREAM” MEANS A LOCATION WHERE SURFACE WATER IS ABSENT DURING
10 PART OF THE YEAR, AS SHOWN ON THE MOST RECENT 7.5 MINUTE TOPOGRAPHIC
11 QUADRANGLE PUBLISHED BY THE UNITED STATES GEOLOGIC SURVEY, OR ITS SUCCESSOR,
12 AS CONFIRMED BY THE DEPARTMENT.

13 (C) *LANDSCAPING PLAN*.

14 “LANDSCAPING PLAN” MEANS A PORTION OF AN APPROVED FOREST CONSERVATION PLAN
15 THAT DETAILS THE REFORESTATION OF AN AREA, AND INCLUDES:

16 (1) DIMENSIONS AND DETAILS OF AN AREA AT LEAST 35 FEET WIDE AND COVERING
17 2,500 SQUARE FEET OR MORE; AND

18 (2) THE USE OF NATIVE OR INDIGENOUS PLANTS.

19 (D) *LINEAR PROJECT*.

20 “LINEAR PROJECT” MEANS A PROJECT WHERE:

21 (1) THE SUBJECT PROPERTY’S PROPOSED USE IS FOR THE TRANSPORTATION OF A
22 UTILITY PRODUCT OR PUBLIC SERVICE, INCLUDING ELECTRICITY, GAS, WATER,
23 SEWER, COMMUNICATIONS, AND TRAINS AND OTHER VEHICLES; AND

24 (2) THE SUBJECT PROPERTY MAY TRAVERSE FEE SIMPLE PROPERTIES THROUGH
25 DEFINED BOUNDARIES OR ESTABLISHED EASEMENT RIGHTS.

26 (E) *OFF-SITE*.

27 “OFF-SITE” MEANS NOT ON THE SAME PROPERTY AS THE ACTIVITY THAT IS PROPOSED, IS
28 OCCURRING, OR THAT HAS OCCURRED.

29 (F) *ON-SITE*.

30 “ON-SITE” MEANS THE AREA LOCATED WITHIN THE LEGAL BOUNDARY OF THE PROPERTY
31 ON WHICH THE REGULATED ACTIVITY IS PROPOSED, IS OCCURRING, OR HAS OCCURRED.

Council Bill 26-0161

1 (G) *PERENNIAL STREAM.*

2 “PERENNIAL STREAM” MEANS A STREAM CONTAINING SURFACE WATER THROUGHOUT AN
3 AVERAGE RAINFALL YEAR, AS SHOWN ON THE MOST RECENT 7.5 MINUTE TOPOGRAPHIC
4 QUADRANGLE PUBLISHED BY THE UNITED STATES GEOLOGIC SURVEY, OR ITS SUCCESSOR,
5 AS CONFIRMED BY THE DEPARTMENT.

6 (H) *PERSON.*

7 (1) *IN GENERAL.*

8 “PERSON” HAS THE MEANING STATED IN § 1-107(A) {“PERSON: IN GENERAL”} OF THE
9 CITY CODE’S GENERAL PROVISIONS ARTICLE.

10 (2) *INCLUSION OF GOVERNMENTAL ENTITIES.*

11 NOTWITHSTANDING § 1-107(B) {“PERSON: EXCLUSION”} OF THE GENERAL
12 PROVISIONS ARTICLE, IN THIS DIVISION IV “PERSON” ALSO INCLUDES A
13 GOVERNMENTAL ENTITY OR AN INSTRUMENTALITY OR UNIT OF A GOVERNMENTAL
14 ENTITY.

15 (I) *PRIORITY RETENTION AREA.*

16 “PRIORITY RETENTION AREA” MEANS ANY AREA INCLUDED IN § 45-4 OF THIS DIVISION IV
17 {“PRIORITY FOR RETENTION AND PROTECTION”}.

18 (J) *QUALIFIED CONSERVATION.*

19 “QUALIFIED CONSERVATION” MEANS THE PROTECTION OF ALL OR PART OF AN EXISTING
20 FOREST THAT:

21 (1) HAS BEEN APPROVED BY THE CITY FOREST CONSERVATION PROGRAM FOR THE
22 PURPOSE OF ESTABLISHING A FOREST MITIGATION BANK; AND

23 (2) IS ENCUMBERED IN PERPETUITY BY A RESTRICTIVE EASEMENT, COVENANT, OR
24 ANOTHER SIMILAR MECHANISM RECORDED AMONG THE LAND RECORDS OF
25 BALTIMORE CITY TO CONSERVE ITS CHARACTER AS A FOREST.

26 (K) *QUALIFIED PROFESSIONAL.*

27 “QUALIFIED PROFESSIONAL” MEANS AN INDIVIDUAL WHO MEETS THE REQUIREMENTS OF
28 COMAR 08.19.06.01 {“QUALIFIED PROFESSIONAL”}.

Council Bill 26-0161

1 (L) *REFOREST; REFORESTATION.*

2 “REFOREST” OR “REFORESTATION” MEANS TO CREATE A BIOLOGICAL COMMUNITY
3 DOMINATED BY TREES AND OTHER WOODY PLANTS CONTAINING AT LEAST 100 TREES PER
4 ACRE WITH AT LEAST 50% OF THOSE TREES HAVING THE POTENTIAL OF ATTAINING A
5 2-INCH OR GREATER DIAMETER MEASURED AT 4.5 FEET ABOVE THE GROUND WITHIN
6 5 YEARS, AND INCLUDES AFFORESTATION OR ESTABLISHMENT OF A FOREST ACCORDING TO
7 PROCEDURES SET FORTH IN THE MANUAL.

8 (M) *REGULATED ACTIVITY.*

9 “REGULATED ACTIVITY” MEANS ANY ACTIVITY SUBJECT TO THE REQUIREMENTS OF § 42-1
10 OF THIS DIVISION IV.

11 (N) *RETENTION.*

12 “RETENTION” MEANS THE DELIBERATE HOLDING AND PROTECTING OF EXISTING TREES,
13 SHRUBS, OR PLANTS ON THE SITE ACCORDING TO ESTABLISHED STANDARDS IN THE
14 MANUAL.

15 (O) *SPECIMEN TREE.*

16 “SPECIMEN TREE” MEANS A TREE HAVING A DIAMETER MEASURED AT 4.5 FEET ABOVE THE
17 GROUND OF 20 INCHES OR MORE OR TREES HAVING 75% OR MORE OF THE DIAMETER OF
18 THE CURRENT STATE CHAMPION TREE OF THAT SPECIES.

19 (P) *STREAM BUFFER.*

20 “STREAM BUFFER” MEANS:

21 (1) FOR AN INTERMITTENT STREAM, THE LAND EXTENDING 50 FEET FROM THE TOP OF
22 EACH NORMAL BANK OF THE INTERMITTENT STREAM; AND

23 (2) FOR A PERENNIAL STREAM, THE LAND EXTENDING 100 FEET FROM THE TOP OF
24 EACH NORMAL BANK OF THE PERENNIAL STREAM.

25 (Q) *TIMBER HARVESTING.*

26 (1) *IN GENERAL.*

27 “TIMBER HARVESTING” MEANS A TREE-CUTTING OPERATION AFFECTING 1 OR MORE
28 ACRES OF FOREST OR DEVELOPED WOODLAND WITHIN A 1-YEAR INTERVAL THAT
29 DISTURBS 5,000 SQUARE FEET OR MORE OF FOREST FLOOR.

30 (2) *EXCLUSIONS.*

31 “TIMBER HARVESTING” DOES NOT INCLUDE THE CLEARING OF ROOT MASS OR
32 GRUBBING.

Council Bill 26-0161

1 (R) *TREE*.

2 "TREE" MEANS A LARGE, WOODY PLANT HAVING 1 OR SEVERAL SELF-SUPPORTING STEMS
3 OR TRUNKS AND NUMEROUS BRANCHES THAT REACH A HEIGHT OF AT LEAST 20 FEET AT
4 MATURITY.

5 **§ 41-5. [41-3.] RULES AND REGULATIONS; Statutory references.**

6 (A) *RULES AND REGULATIONS*.

7 SUBJECT TO TITLE 4 {"ADMINISTRATIVE PROCEDURE ACT – REGULATIONS"} OF THE CITY
8 GENERAL PROVISIONS ARTICLE, THE DEPARTMENT SHALL ADOPT RULES AND
9 REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS DIVISION IV.

10 (B) *STATUTORY REFERENCES*.

11 Whenever a provision of this Division IV refers to any portion of the Maryland Code, the
12 Code of Maryland Regulations, and the State Forest Conservation Manual, the reference
13 applies to [any subsequent amendment to that portion] THE MOST CURRENT VERSION of
14 the [code,] MARYLAND CODE, regulations, or manual unless the referring provision
15 expressly provides otherwise.

16 **§ 41-6. [41-4.] Scope of Division – In general.**

17 (1) Except as provided in § [41-5] 41-7 of this subtitle, this Division IV applies to:

- 18 (i) any person making application for a grading or building permit on a parcel or
19 parcels of land for a total area of 5,000 square feet or greater;
- 20 (ii) any person making application for a subdivision or development plan on a parcel
21 or parcels of land for a total area of greater than 5,000 square feet; and
- 22 (iii) a public utility not exempt under [§ 41-5(b)(3)] § 41-7(4) of this subtitle.

23 (2) *PLANS AND PERMITS CONDITIONED ON APPROVAL*.

- 24 (I) All subdivision or development plan approvals subject to this Division IV shall be
25 conditioned on approval of a concept Forest Conservation Plan.
- 26 (II) All grading or building permits subject to this Division IV shall be issued conditioned
27 on approval of and compliance with a Forest Conservation Plan.

28 **§ 41-7. [41-5.] Scope of Division – Exemptions.**

29 [(a) *Definitions.*]

30 [(1) *Commercial logging or timber harvesting operations.*]

Council Bill 26-0161

1 [“Commercial logging or timber harvesting operations” means those activities which
2 result in the cutting and removing of tree stems from a site for commercial purposes,
3 leaving the root mass intact.]

4 [(2) *Timber harvesting.*]

5 [(i) “Timber harvesting” means a tree-cutting operation affecting 1 or more acres of
6 forest or developed woodland within a 1-year interval that disturbs 5,000 square
7 feet or more of forest floor.]

8 [(ii) “Timber harvesting” does not include grubbing and clearing of root mass.]

9 [(b) *Exempted activities.*]

10 This Division IV does not apply to:

11 (1) any highway construction activity that is subject to State Natural Resources Article
12 § 5-103;

13 (2) AREAS GOVERNED BY THE CHESAPEAKE BAY CRITICAL AREA PROTECTION LAW,
14 §§ 8-1801 THROUGH 8-1817 OF THE STATE NATURAL RESOURCES ARTICLE,
15 INCLUDING THOSE AREAS INTO WHICH CRITICAL AREA FOREST PROTECTION MEASURES
16 HAVE BEEN EXTENDED UNDER §5-1602(C) OF THE STATE NATURAL RESOURCES
17 ARTICLE;

18 (3) [(2)] commercial logging and timber harvesting operations, subject to the forest
19 conservation and management program under State Tax-Property Article § 8-211:

20 (i) that were completed before July 1, 1991; or

21 (ii) were completed on or after July 1, 1991, on property which:

22 [(A) is the subject of a declaration of intent signed by the land owner and
23 approved by the Department of Public Works and the Maryland
24 Department of Natural Resource’s Project Forester’s Office as
25 provided in COMAR 08.19.01.05; and]

26 (A) [(B)] has not been the subject of an application for a grading permit
27 for development within 5 years after a logging or timber harvesting
28 operation, but after this 5-year period the property shall be subject to
29 this Division IV; AND

30 (B) IS THE SUBJECT OF A DECLARATION OF INTENT AS PROVIDED FOR IN
31 § 42-7 {“DECLARATION OF INTENT”} OF THIS DIVISION IV;

32 (4) [(3)] the cutting or clearing of public utility rights-of-way or land for electric
33 generating stations regulated under State Public Utility Companies Article, Title 7, if:

34 (i) required certificates of public convenience and necessity have been issued in
35 accordance with State Natural Resources Article § 5-1603(f); and

Council Bill 26-0161

- 1 (ii) the cutting or clearing of the forest is conducted so as to minimize the loss of
2 forest;
- 3 (5) [(4)] routine maintenance or emergency repairs of public utility rights-of-way, if:
- 4 (i) the right-of-way existed before the effective date of the State or this program;
5 or
- 6 (ii) the right-of-way's initial construction was approved under this Division IV;
- 7 (6) [(5)] any noncoal surface mining regulated under [Title 7, Subtitle 6A, of the State
8 Natural Resources Article] TITLE 15, SUBTITLE 8, OF THE STATE ENVIRONMENT
9 ARTICLE;
- 10 (7) [(6)] any preliminary plan of subdivision or any grading or sediment control plan
11 approved before July 1, 1991;
- 12 [(7) areas covered by the Chesapeake Bay Critical Area Protection Law;]
- 13 (8) a real estate transfer to provide a security, leasehold, or other legal or equitable
14 interest, including a transfer of title, a portion of a lot or parcel, if:
- 15 (i) the transfer does not involve a change in land use or new development or
16 development, with associated land disturbing activities; and
- 17 (ii) both the grantor and grantee file a declaration of intent;
- 18 (9) any activity conducted on a single lot of any size provided that the activity:
- 19 (i) does not result in the cumulative cutting or clearing of 5,000 square feet or
20 greater of forest; [and] OR
- 21 (ii) does not include an application for a grading or building permit for
22 disturbance of 5,000 square feet or greater; [or]
- 23 [(10) an activity required for the purpose of constructing a dwelling house intended
24 for the use of the owner, or a child or a grandchild of the owner, if the activity:]
- 25 [(i) does not result in the cumulative cutting or clearing of 20,000 square feet or
26 greater of forest;]
- 27 [(ii) does not include an application for a grading or sediment and erosion control
28 permit of 20,000 square feet or greater; and]
- 29 [(iii) is the subject of a declaration of intent filed with the Department pursuant to
30 § 42-7 of this Division IV.]

Council Bill 26-0161

1 (10) MAINTENANCE OR RETROFITTING OF A STORMWATER MANAGEMENT PRACTICE,
2 WHICH MAY INCLUDE:

3 (I) CLEARING OF VEGETATION OR REMOVAL AND TRIMMING OF TREES, SO LONG AS
4 THE MAINTENANCE OR RETROFITTING IS:

5 (A) WITHIN THE ORIGINAL LIMITS OF DISTURBANCE FOR CONSTRUCTION OF
6 THE EXISTING STRUCTURE; OR

7 (B) WITHIN ANY MAINTENANCE EASEMENT FOR ACCESS TO THE
8 STRUCTURE;

9 (II) REMOVING VEGETATION REQUIRED TO RESTORE THE FUNCTION OF THE
10 FACILITY; AND

11 (III) REMOVING VEGETATION NOT PLANTED UNDER A PREVIOUSLY APPROVED
12 FOREST CONSERVATION PLAN OR BUILDING OR GRADING; OR

13 (11) FOREST MANAGEMENT, ON SUBMITTAL OF THE ASSOCIATED FOREST MANAGEMENT
14 PLAN TO THE DEPARTMENT AND THE SUBSEQUENT APPROVAL OF THE DEPARTMENT.

15 **Subtitle 42. General Requirements**

16 **§ 42-1. In general.**

17 (a) *Required delineations, plans, and methods.*

18 Any person subject to this Division IV:

19 (1) shall submit to the Department:

20 (i) a forest stand delineation for the property on which the development is
21 located according to guidelines set forth in the [Baltimore City Forest
22 Conservation] Manual and this Division IV; and

23 (ii) a forest conservation plan for the property on which the development is
24 located according to guidelines set forth in the Manual and this
25 Division IV; and

26 (2) shall use methods provided in the Manual to protect retained forest and trees
27 during construction.

28 (b) *City agencies using state funds.*

29 If a City agency using state funds makes application to conduct a regulated activity, the
30 provisions of COMAR 08.19.04.01D apply.

Council Bill 26-0161

1 § 42-2. Preparation of plans.

2 The forest stand delineation, the forest conservation plan, including preliminary and final
3 [plan,] PLANS, and the afforestation plan shall be prepared by a licensed forester, licensed
4 landscape architect, or other qualified [professional as provided in COMAR 08.19.06.01B.]
5 PROFESSIONAL.

6 § 42-3. Authorized signatory.

7 (a) *Who must sign.*

8 The forest stand delineation, preliminary and final forest conservation plans and
9 afforestation/reforestation plans shall be signed by:

- 10 (1) an officer of the corporation or an authorized agent of a corporation;
- 11 (2) an authorized official of a federal, state, or local government;
- 12 (3) a partner of an association or partnership; or
- 13 (4) an individual applicant.

14 (b) *Responsibility of signatory.*

15 The individual who signs an application is responsible for the truth, accuracy, and
16 completeness of all information in the application.

17 § 42-4. Review.

18 (A) *IN GENERAL.*

19 The Department shall review an application for a forest stand delineation, forestation and
20 deforestation plans, and preliminary and final forest conservation plans to determine
21 whether they are complete and correct, and shall acknowledge receipt of the application
22 in writing by regular first class [mail or email.] MAIL, EMAIL, OR THROUGH A DESIGNATED
23 ELECTRONIC SYSTEM.

24 (B) *REQUEST FOR ADDITIONAL INFORMATION.*

25 THE DEPARTMENT MAY REQUEST ADDITIONAL INFORMATION AND SUPPORTING
26 DOCUMENTATION REGARDING LONG-TERM PROTECTION AREAS RELATED TO THE SUBJECT
27 PROJECT, INCLUDING:

- 28 (1) THE LIMITS OF PLANTING AREAS; AND
- 29 (2) FOREST CONSERVATION EASEMENTS.

Council Bill 26-0161

1 (C) *CONCURRENT REVIEW.*

2 THE REVIEW OF A FOREST CONSERVATION PLAN SHALL BE CONCURRENT WITH THE REVIEW
3 PROCESS FOR THE RELATED SUBDIVISION PLAN OR GRADING OR SEDIMENT CONTROL
4 PERMIT, WHICHEVER MAY BE SUBMITTED FIRST.

5 (D) *APPROVAL OF FOREST CONSERVATION PLAN AS PRECONDITION.*

6 THE DEPARTMENT MAY NOT ISSUE A GRADING OR SEDIMENT CONTROL PERMIT BEFORE
7 THE DEPARTMENT APPROVES THE RELATED FOREST CONSERVATION PLAN.

8 (E) *PRECONDITION TO OCCUPANCY PERMIT.*

9 BEFORE THE DEPARTMENT MAY ISSUE AN OCCUPANCY PERMIT ASSOCIATED WITH THE
10 SUBJECT PROJECT, THE APPLICANT SHALL FIRST SUBMIT TO THE DEPARTMENT AS-BUILT
11 PLANS THAT DOCUMENT COMPLIANCE WITH THE APPROVED FOREST CONSERVATION PLAN.

12 **§ 42-5. Completeness of application.**

13 The Department shall consider a forest stand delineation, preliminary and final forest
14 conservation plans, and afforestation plans complete if they contain all of the required
15 information listed in THIS CODE AND the [Baltimore City Forest Conservation] Manual.

16 **§ 42-6. [Notification of completeness] NOTICE; COMMENT; JUDICIAL REVIEW.**

17 (a) *[To be given within 45 days.] UPON RECEIPT OF FOREST CONSERVATION PLAN; NOTICE*
18 *TO APPLICANT.*

19 Within 45 calendar days after receipt of [the forest stand delineation,] the preliminary and
20 final forest conservation plans, [and the afforestation plan,] the Department shall notify
21 the applicant by mail or email whether the application is complete and correct or if
22 additional information is required.

23 (b) *Effect of failure to notify.*

24 If the Department fails to notify the applicant within 45 days, any plan submitted shall be
25 treated as complete and correct.

26 (c) *Additional information; extension of review.*

27 The Department may require further information or provide for an additional 15 calendar
28 days for review of an application under extenuating circumstances.

29 (D) *NOTICE TO ABUTTING AND ADJACENT PROPERTY OWNERS.*

30 (1) *CONDITIONS REQUIRING NOTICE.*

31 AT LEAST 20 DAYS BEFORE APPROVAL OF THE FOREST CONSERVATION PLAN, THE
32 DEPARTMENT SHALL:

Council Bill 26-0161

1 (I) PROVIDE NOTICE TO ALL PROPERTY OWNERS ABUTTING AND ADJACENT TO THE
2 BOUNDARY ON THE SUBJECT PROPERTY OF ANY PROPOSED CLEARING OF A
3 PRIORITY RETENTION AREA AS DESCRIBED IN § 45-6 {"CLEARING PRIORITY
4 RETENTION AREAS"} OF THIS DIVISION IV; AND

5 (II) PROVIDE AN OPPORTUNITY FOR WRITTEN AND VERBAL COMMENT BEFORE THE
6 DEPARTMENT ISSUES A FINAL DETERMINATION, IF:

7 (A) THE NET TRACT AREA OF THE SUBJECT REAL PROPERTY IN A FOREST
8 CONSERVATION PLAN IS 5 ACRES OR LARGER; AND

9 (B) AT LEAST 75% OF THE PRIORITY RETENTION AREA IN A FOREST
10 CONSERVATION PLAN IS PROPOSED TO BE CLEARED; OR

11 (III) PROVIDE AN OPPORTUNITY FOR PUBLIC WRITTEN COMMENT BEFORE THE
12 DEPARTMENT ISSUES A FINAL DETERMINATION FOR ANY OTHER PROJECT
13 WHERE A PRIORITY RETENTION AREA IS PROPOSED FOR CLEARING.

14 (2) *DETERMINATION OF "ABUTTING AND ADJACENT".*

15 (I) REAL PROPERTY SEPARATED FROM THE SUBJECT PROPERTY BY A PUBLIC
16 RIGHT-OF-WAY SHALL BE CONSIDERED ABUTTING AND ADJACENT FOR THE
17 PURPOSE OF THIS SUBSECTION.

18 (II) REAL PROPERTY WITHIN 500 FEET OF ANY PORTION OF THE SUBJECT PROPERTY'S
19 BOUNDARY SHALL BE CONSIDERED ABUTTING AND ADJACENT FOR THE PURPOSE OF
20 THIS SUBSECTION.

21 (E) *JUDICIAL REVIEW.*

22 (I) AN ADJACENT PROPERTY OWNER OR OTHER AGGRIEVED PERSON PETITIONING FOR
23 JUDICIAL REVIEW OF AN APPROVED FOREST CONSERVATION PLAN SHALL FILE THE
24 PETITION IN ACCORDANCE WITH THE MARYLAND RULES NOT LATER THAN 30 DAYS
25 AFTER APPROVAL OF THE FOREST CONSERVATION PLAN.

26 (II) ANY JUDICIAL REVIEW OF A FOREST CONSERVATION PLAN SHALL BE:

27 (A) CONDUCTED IN ACCORDANCE WITH THE MARYLAND RULES; AND

28 (B) LIMITED TO THE RECORD COMPILED BY THE DEPARTMENT.

29 **§ 42-7. Declaration of intent.**

30 (a) *Required for exemption.*

31 A person seeking an exemption under [§ 41-4] § 41-5 of this Division IV shall file a
32 declaration of intent with the Department.

Council Bill 26-0161

1 (b) *Compliance with COMAR.*

2 The declaration of intent shall be as specified in COMAR 08.19.01.05.

3 (c) *Effective term.*

4 The declaration of intent is effective for 5 years.

5 **§ 42-8. Area subject to calculations.**

6 For a grading or building permit application for an area 40,000 square feet or greater in size,
7 only the area of disturbance is subject to reforestation and afforestation calculations, unless
8 the grading or building permit is part of a master plan, development plan, planned unit
9 development, or subdivision for which the entire master plan, development plan, planned unit
10 development, or subdivision is subject to reforestation and afforestation calculations.

11 **Subtitle 43. Forest Stand Delineation**

12 **§ 43-1. Time for submission.**

13 (a) *In general.*

14 A forest stand delineation for the affected area shall be submitted:

- 15 (1) at the initial stages of subdivision or site plan approval;
16 (2) before a grading or building permit application is submitted; or
17 (3) before a sediment and erosion control application is submitted.

18 (b) *Effect of failure to submit.*

19 If the forest stand delineation is not submitted at this time, no action will be taken on an
20 application request for subdivision, site plan, building, grading, or sediment and erosion
21 control approval.

22 **§ 43-2. Simplified delineation – When authorized.**

23 A simplified forest stand delineation may be submitted for an area:

- 24 (1) when no forest cover will be disturbed during any construction activity;
25 (2) when an area is designated to be protected under a long term protective agreement;
26 (3) when there is no existing forest on the site; or
27 (4) when approved by the Department.

Council Bill 26-0161

§ 43-3. Simplified delineation – Requirements.

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

- (1) a topographic map delineating intermittent and perennial streams and steep slopes over 25%;
- (2) a soils map;
- (3) THE location of ANY AREA WITH A 1% CHANCE OF BEING FLOODED IN ANY GIVEN YEAR, KNOWN AS A BASE FLOOD, OR THE 100-year floodplain; and
- (4) any other information necessary for the Department to review the application.

§ 43-4. Effective term.

An approved forest stand delineation may remain in effect for a period not longer than 5 years.

Subtitle 44. Forest Conservation Plan

§ 44-1. Preliminary plan.

(a) *Concurrent review.*

The review of a preliminary forest conservation plan shall be concurrent with the review of the preliminary site plan.

(b) *Modifications.*

A preliminary forest conservation plan may be modified during the different stages of the review process, provided the Department approves the changes.

§ 44-2. Retention of existing forest and specimen trees.

(A) *IN GENERAL.*

In developing a forest conservation plan, the applicant shall give priority to techniques for retaining existing forest and specimen trees on the site.

(B) *MAINTENANCE OF FOREST – IMPOSSIBILITY.*

If existing forest or specimen trees on the site subject to a forest conservation plan cannot be retained, the applicant shall demonstrate to the satisfaction of the [Department] DEPARTMENT:

(I) how techniques for retention have been [exhausted.] EXHAUSTED;

(II) WHY THE PRIORITY FORESTS AND PRIORITY AREAS CANNOT BE LEFT UNDISTURBED;

Council Bill 26-0161

1 (III) HOW THE SEQUENCE FOR AFFORESTATION OR REFORESTATION WILL BE FOLLOWED;

2 (IV) WHERE WITHIN PRIORITY AREAS AFFORESTATION OR REFORESTATION WILL OCCUR;
3 AND

4 (V) HOW THE DISTURBANCE OF PRIORITY FORESTS AND PRIORITY AREAS MEET THE
5 STANDARDS ESTABLISHED UNDER SUBTITLE 45 {"REFORESTATION,
6 AFFORESTATION, AND SPECIMEN TREE MITIGATION"} OF THIS DIVISION IV.

7 (C) *AFFORESTATION OR REFORESTATION – IMPOSSIBILITY.*

8 IF AN APPLICANT PROPOSES TO MAKE A PAYMENT INTO THE FOREST CONSERVATION FUND
9 OR TO PURCHASE CREDITS FROM A FOREST MITIGATION BANK, THE APPLICANT SHALL
10 DEMONSTRATE TO THE SATISFACTION OF THE DEPARTMENT THAT THE REQUIREMENTS FOR
11 AFFORESTATION OR REFORESTATION ONSITE OR OFFSITE CANNOT BE REASONABLY
12 ACCOMPLISHED.

13 § 44-3. Impacts to specimen trees and forests on adjacent properties.

14 The Department may only approve clearing or significant critical root zone impacts to
15 specimen trees or forests on adjacent properties if the applicant submits written notification
16 of the proposed clearing or significant critical root zone impacts to the owners.

17 § 44-4. Revocation of plan – Grounds.

18 The Department, its designee, or other responsible agency at the request of the Department,
19 may revoke an approved forest conservation plan, including a reforestation and afforestation
20 plan, if it finds that:

21 (1) any provision of the plan has been violated;

22 (2) approval of the plan was obtained through fraud, misrepresentation, a false or
23 misleading statement, or omission of a relevant or material fact; or

24 (3) changes in the development or in the condition of the site necessitate preparation of a
25 new or amended plan.

26 § 44-5. Revocation of plan – Notice and hearing.

27 Prior to revoking approval of a forest conservation plan, the Department shall notify the
28 owner [and/or] OR developer, OR BOTH, in writing and provide an opportunity for hearing
29 before the Baltimore City Planning Commission.

30 § 44-6. Cutting prohibited pending approval.

31 If a forest conservation plan is required by this Division IV, a person shall not cut, clear, or
32 grade on the development site until the Department has approved the plan. All grading or
33 building permits, and subdivision or development plan approvals shall be issued conditioned
34 on approval of, and compliance with a Forest Conservation Plan.

Council Bill 26-0161

§ 44-7. Approval of plan alteration.

The plan [cannot] MAY NOT be altered without first obtaining approval from the Department.

§ 44-8. Modification of a forest conservation easement.

(a) *Process for [reviewing and approving/denying] REVIEWING, APPROVING, AND DENYING modifications.*

The following review and approval paths [will] SHALL apply to forest conservation easement modifications:

(1) [Expansion] EXPANSION of an easement with no reduction to the easement [can] SHALL be reviewed and approved through the standard forest conservation review [process.] PROCESS;

(2) [Less] LESS than 5,000 square feet of modification to an easement of at least 15,000 [square.] SQUARE feet in size [can] SHALL be reviewed and approved through the standard forest conservation review [process.] PROCESS;

(3) 5,000 square feet or greater OF modification to an easement of at least 15,000 square feet in size [must] SHALL be approved by the Planning Commission.

(4) [Any] ANY amount of modification to an easement established as part of a previous approval by the Planning Commission [must] SHALL be approved by the Planning [Commission.] COMMISSION;

(5) [No] NO modification will be permitted to reduce an easement to less than 10,000 square feet in size if the easement is to [remain.] REMAIN; AND

(6) [The applicant will need to:] AN APPLICANT SEEKING TO MODIFY A FOREST CONSERVATION EASEMENT SHALL SUBMIT THE MATERIALS DETAILED BELOW TO THE DEPARTMENT, THE PLANNING COMMISSION, OR BOTH, AS APPROPRIATE:

(i) a new Forest Stand Delineation if the Forest Stand Delineation on record is more than 5 years old;

(ii) a new Forest Conservation Plan identifying the proposed easement [modification(s); the plan must demonstrate] MODIFICATIONS THAT DEMONSTRATE that the proposed modifications enhance or have no adverse effect on public safety and the public benefit, and enhance or appropriately offset any adverse effect on the conservation attributes of the property;

(iii) information describing how the request meets one or more of the “Conditions and Circumstances Under Which an Easement Modification May Be Considered” and all applicable “Criteria for Approval of an Easement Modification” as listed [below;] IN SUBSECTION (B) OR (C) OF THIS SECTION; and

Council Bill 26-0161

1 (iv) a request to the Planning Commission for Forest Conservation
2 Easement modification, for modifications requiring Planning Commission
3 approval.

4 (7) Once a request requiring Planning Commission approval has been accepted and
5 scheduled for Planning Commission review, the applicant [must] SHALL meet all
6 Planning Commission hearing requirements.

7 [(b) *Conditions and circumstances under which an easement modification may be*
8 *considered.*]

9 [(1) Expansion of an easement.]

10 [(2) Correction of oversight or error.]

11 [(3) Modification to address an environmental problem or public safety issue.]

12 [(4) Modification to accomplish a public benefit.]

13 (B) *CONDITIONS UNDER WHICH AN EASEMENT MODIFICATION MAY BE CONSIDERED.*

14 THE DEPARTMENT MAY CONSIDER A MODIFICATION TO AN EASEMENT IN THE FOLLOWING
15 CIRCUMSTANCES:

16 (1) EXPANSION OF AN EASEMENT;

17 (2) CORRECTION OF OVERSIGHT OR ERROR;

18 (3) MODIFICATION TO ADDRESS AN ENVIRONMENTAL PROBLEM OR PUBLIC SAFETY
19 ISSUE; AND

20 (4) MODIFICATION TO ACCOMPLISH A PUBLIC BENEFIT.

21 (c) *Criteria for approval of an easement modification.*

22 (1) The applicant [must] SHALL demonstrate that the modified easement will meet [state
23 and local] STATE AND CITY forest conservation standards.

24 (2) [(1)] In the case of a correction of an oversight or error, the applicant [must] SHALL
25 demonstrate that an oversight or error exists in the recorded easement documents.

26 (3) [(2)] In the case of a modification to address an environmental problem or public
27 safety issue, the applicant [must] SHALL demonstrate existence and extent of the
28 environmental or public safety issue.

29 (4) [(3)] In the case of a modification to accomplish a public benefit, the applicant [must]
30 shall demonstrate and quantify the public benefit that would result from the
31 modification.

Council Bill 26-0161

1 (5) [(4)] In cases where a proposed modification would result in removal of a portion of
2 the existing easement, the applicant [must] SHALL demonstrate that, in identifying the
3 proposed solution, all potential options for retaining the easement intact were
4 exhausted.

5 (6) [(5)] In cases where a proposed modification would result in removal of a portion of
6 the existing easement, the applicant [must] SHALL demonstrate that the mitigation
7 proposed meets the requirements as calculated using the [state] STATE Forest
8 Conservation Worksheet and that the mitigation proposed follows the required
9 sequence for mitigation as listed under Subtitle 45 of Article 7, Division IV of the
10 City Code. A fee in lieu will only be considered as a last resort.

11 (7) [(6)] Proposals to completely remove or eliminate an easement [will not] MAY NOT be
12 considered unless the existing easement is replaced with an on- or off-site easement
13 of equivalent quality and of a size determined using the State Forest Conservation
14 Worksheet.

15 (8) [(7)] Equivalent quality will be determined by the Department of Planning through a
16 comparison of the existing and proposed easements, including the presence of priority
17 forest, forest stand maturity, health, and species diversity, and the extent of non-native
18 invasive vegetation.

19 (9) [(8)] [No modification will be] A MODIFICATION MAY NOT BE permitted to reduce an
20 easement to less than 10,000 square feet in size, and minimum dimensions [must]
21 SHALL meet the standards established in the State Forest Conservation [Technical]
22 Manual.

23 (d) *Steps following approval of a forest conservation easement modification.*

24 (1) FOLLOWING APPROVAL OF A FOREST CONSERVATION EASEMENT MODIFICATION, AN
25 APPLICANT SHALL:

26 (I) [(1) Submit] SUBMIT a new draft record plat and draft easement agreement TO
27 THE DEPARTMENT for [approval. The agreement should cite] THAT CITES any
28 terms or conditions associated with approval by the Department or the
29 Planning [Commission.] COMMISSION;

30 (II) [(2) Provide] PROVIDE a draft bond for any on-site or off-site mitigation
31 requirements approved by the Planning Commission and work with the
32 Department [of Planning] to prepare a draft [MOU] MEMORANDUM OF
33 UNDERSTANDING (“MOU”) [defining] DETAILING the terms for completing the
34 mitigation and releasing the [bond.] BOND;

35 (III) [(3) Once] ONCE the draft bond has been approved, execute the bond and
36 associated MOU and provide the original to the [Department of Planning.]
37 DEPARTMENT;

Council Bill 26-0161

1 (IV) [(4) Once] ONCE the record plat and easement agreement have been
2 approved by the Department [of Planning], record the new plat and agreement
3 with the Circuit Court for Baltimore City, Land Records and Licenses
4 [Division.] DIVISION;

5 (V) [(5) Satisfy] SATISFY all mitigation [requirements required.] REQUIREMENTS;
6 AND

7 (VI) [Notify] NOTIFY Department [of Planning] staff for inspections once
8 mitigation has been installed and again before the [two-year] 2-YEAR
9 maintenance and establishment period concludes.

10 (2) Once all mitigation and maintenance requirements DETAILED IN PARAGRAPH (1) OF
11 THIS SUBSECTION have been satisfied, the Department [of Planning will] SHALL
12 arrange to release the bond.

13 **Subtitle 45. Reforestation, Afforestation, and Specimen Tree Mitigation**

14 **§ 45-1. Preference for retention.**

15 After every reasonable effort to minimize the cutting of trees and other woody plants is
16 exhausted in the development of a subdivision plan, [and/or] OR A grading and sediment
17 control [plans,] PLAN, OR BOTH, the forest conservation plan shall provide for AN
18 APPROPRIATE MIXTURE OF reforestation, afforestation, [and/or] AND specimen tree mitigation,
19 AS DETERMINED BY THE DEPARTMENT.

20 **§ 45-2. Required [sequence.] SEQUENCE FOR REFORESTATION, AFFORESTATION, AND**
21 **SPECIMEN TREE MITIGATION.**

22 [(a) *Definitions.*]

23 [(1) *Off-site.*]

24 [“Off-site” means not on the same property as the activity which is proposed, is
25 occurring, or which has occurred.]

26 [(2) *On-site.*]

27 [“On-site” means the area located within the legal boundary of the property on which
28 the regulated activity is proposed, is occurring, or has occurred.]

29 [(b) *Sequence for reforestation, etc.*]

30 The required sequence for reforestation, afforestation, or specimen tree mitigation, after
31 techniques for retaining existing forest on the site have been exhausted, is as follows:

32 (1) on-site reforestation, afforestation, [and/or] OR specimen tree mitigation, as specified
33 in the [Baltimore City Forest Conservation] Manual;

Council Bill 26-0161

1 (2) off-site reforestation, afforestation, [and/or] OR specimen tree mitigation within the
2 City shall be as specified for on-site reforestation or specimen tree mitigation;

3 [(3) use of appropriate credits generated by a forest mitigation bank in the City; and]

4 (3) THE RESTORATION OF ON-SITE OR OFF-SITE DEGRADED FOREST, IN WHICH CASE THE
5 AFFORESTATION OR REFORESTATION CREDIT GRANTED MAY NOT EXCEED 50% OF THE
6 AREA OF FOREST RESTORED;

7 (4) THE ACQUISITION OF AN OFF-SITE PROTECTION EASEMENT ON EXISTING FORESTED
8 AREAS NOT CURRENTLY PROTECTED IN PERPETUITY AS A MITIGATION TECHNIQUE, IN
9 WHICH CASE THE AFFORESTATION OR REFORESTATION CREDIT GRANTED MAY NOT
10 EXCEED 50% OF THE AREA OF FOREST COVER PROTECTED;

11 (5) USE OF QUALIFIED CONSERVATION COMPLETED IN A FOREST MITIGATION BANK IN THE
12 CITY TO MEET UP TO 50% OF THE AFFORESTATION OR REFORESTATION REQUIREMENT,
13 IN WHICH CASE THE AFFORESTATION OR REFORESTATION CREDIT GRANTED MAY NOT
14 EXCEED 50% OF THE FOREST AREA ENCUMBERED IN PERPETUITY; AND

15 (6) [(4)] payment into the City Forest Conservation Fund.

16 **§ 45-3. [Reforestation, etc., guidelines; time limits.] AFFORESTATION AND REFORESTATION**
17 **STANDARDS.**

18 [(a) *Priority guidelines in Manual.*]

19 [Persons required to conduct reforestation, afforestation, or specimen tree mitigation shall
20 follow the priority guidelines outlined in the Baltimore City Forest Conservation
21 Manual.]

22 [(b) *Period for reforestation, etc.*]

23 [A person required to conduct reforestation, afforestation, or specimen tree mitigation
24 under this Division IV shall accomplish the action within 1 year or 2 growing seasons
25 following the issuance of a grading permit, allowing for phasing in the plan.]

26 (A) *AFFORESTATION STANDARDS.*

27 (1) *FOREST COVER — LESS THAN 20%.*

28 LOTS LOCATED IN THE OS, R-1A, AND R-1B ZONING DISTRICTS HAVING LESS THAN
29 20% OF THE NET TRACT AREA IN FOREST COVER SHALL BE AFFORESTED UP TO 20% OF
30 THE NET TRACT AREA.

31 (2) *FOREST COVER — LESS THAN 15%.*

32 LOTS LOCATED IN ALL OTHER ZONING DISTRICTS NOT INCLUDED IN SUBSECTION (A) OF
33 THIS SECTION HAVING LESS THAN 15% OF THE NET TRACT AREA IN FOREST COVER
34 SHALL BE AFFORESTED UP TO 15% OF THE NET TRACT AREA.

Council Bill 26-0161

1 (B) *REFORESTATION STANDARDS.*

2 FOR ALL EXISTING FOREST COVER MEASURED TO THE NEAREST 1/10TH OF AN ACRE
3 CLEARED ON THE NET TRACT AREA, THE AREA OF FOREST REMOVED SHALL BE
4 REFORESTED AT A RATIO OF 1 ACRE PLANTED FOR EVERY 1 ACRE REMOVED.

5 (C) *SPECIAL REQUIREMENT – STREAM BUFFERS.*

6 ALL UNFORESTED STREAM BUFFERS SHALL BE AFFORESTED OR REFORESTED, UNLESS AN
7 APPLICANT DEMONSTRATES TO THE DEPARTMENT’S SATISFACTION THAT AFFORESTATION
8 IN THE STREAM BUFFER:

9 (1) WOULD BE IN CONFLICT WITH ALLOWABLE USES ESTABLISHED FOR THE RIPARIAN
10 BUFFER;

11 (2) IS LOCATED WITHIN A CITY-OWNED PARK AND CONFLICTS WITH THE MISSION AND
12 ESTABLISHED STEWARDSHIP PRACTICES OF THE PARK; OR

13 (3) IS NOT SUITABLE FOR THE ESTABLISHMENT AND RETENTION OF THE REQUIRED
14 PLANTING MATERIALS, IN WHICH CASE SUBSTITUTE ENVIRONMENTAL PROTECTION
15 MEASURES SHALL BE IMPLEMENTED.

16 (D) *ABILITY TO COMPLETE.*

17 AFFORESTATION AND REFORESTATION REQUIREMENTS MUST CONFORM TO THE
18 CONDITIONS IN THIS SUBTITLE, INCLUDING PAYMENT INTO THE CITY FOREST
19 CONSERVATION FUND, IF AFFORESTATION OR REFORESTATION ON-SITE OR OFF-SITE
20 CANNOT BE REASONABLY ACCOMPLISHED.

21 (E) *TIME TO COMPLETE.*

22 (1) THE AFFORESTATION AND REFORESTATION REQUIREMENTS UNDER THIS SECTION
23 SHALL BE ACCOMPLISHED WITHIN 1 YEAR AFTER THE COMPLETION OF THE
24 DEVELOPMENT PROJECT.

25 (2) IF AFFORESTATION OR REFORESTATION THAT WAS PROPOSED AT THE TIME OF THE
26 ISSUANCE OF A GRADING OR BUILDING PERMIT CAN NO LONGER BE REASONABLY
27 ACCOMPLISHED ON-SITE OR OFF-SITE, THE REQUIREMENT TO CONTRIBUTE MONEY TO
28 THE CITY FOREST CONSERVATION FUND UNDER § 46-1 {“FOREST CONSERVATION
29 FUND”} OF THIS DIVISION IV SHALL BE MET WITHIN 90 DAYS AFTER THE COMPLETION
30 OF THE DEVELOPMENT PROJECT.

31 (F) *EXEMPTIONS - LIMITED.*

32 (1) *IN GENERAL.*

33 THE EXCEPTIONS PROVIDED BELOW ARE LIMITED TO THE SPECIFIC CIRCUMSTANCES
34 DESCRIBED IN THIS SUBSECTION AND MAY NOT EXEMPT ANY PROJECT FROM FOREST
35 CONSERVATION REVIEW AND REFORESTATION AND SPECIMEN TREE MITIGATION
36 REQUIREMENTS AS OTHERWISE REQUIRED UNDER THIS DIVISION IV.

Council Bill 26-0161

1 (2) *SOLAR PHOTOVOLTAIC.*

2 SOLAR PHOTOVOLTAIC FACILITIES, WHICH INCLUDE ONLY THOSE PROJECTS FOR WHICH
3 SOLAR ENERGY PRODUCTION IS THE PRIMARY GOAL OF THE PROJECT, MAY NOT BE
4 SUBJECT TO AFFORESTATION REQUIREMENTS UNDER THIS SUBTITLE.

5 (3) *LINEAR PROJECTS.*

6 (I) LINEAR PROJECTS THAT INVOLVE NO CHANGE IN LAND USE AND RETURN THE LAND
7 SURFACE BACK TO EXISTING CONDITIONS MAY NOT BE SUBJECT TO AFFORESTATION
8 REQUIREMENTS.

9 (II) THE DEPARTMENT MAY GRANT EXCEPTIONS FOR RETURNING THE LAND SURFACE
10 BACK TO EXISTING CONDITIONS WHERE THERE ARE UTILITIES WITH TREES PLANTED
11 DIRECTLY OVERTOP IN EXISTING CONDITIONS.

12 (4) *URBAN AGRICULTURE.*

13 THE LAND USE “URBAN AGRICULTURE”, AS DEFINED IN SUBTITLE 3 {“DEFINITIONS”}
14 OF THE BALTIMORE CITY ZONING CODE, MAY NOT BE SUBJECT TO AFFORESTATION
15 REQUIREMENTS.

16 (5) *STORMWATER MANAGEMENT.*

17 VOLUNTEER STORMWATER MANAGEMENT PROJECTS WITH AN ASSOCIATED
18 DISTURBANCE OF UNDER 40,000 SQUARE FEET THAT DO NOT INCLUDE AN APPLICATION
19 FOR A GRADING OR BUILDING PERMIT ARE EXEMPT FROM AFFORESTATION
20 REQUIREMENTS.

21 **§ 45-4. PRIORITY FOR RETENTION AND PROTECTION.**

22
23 (A) *ESTABLISHMENT OF PRIORITY FOR RETENTION AND PROTECTION.*

24 THE FOLLOWING TREES, SHRUBS, PLANTS, AND SPECIFIC AREAS ARE A PRIORITY FOR
25 RETENTION AND PROTECTION:

26 (1) TREES, SHRUBS, AND PLANTS LOCATED IN SENSITIVE AREAS INCLUDING:

27 (I) 100-YEAR FLOODPLAINS;

28 (II) INTERMITTENT STREAMS AND THEIR BUFFERS OF AT LEAST 50 FEET FROM
29 THE STREAM CHANNEL;

30 (III) PERENNIAL STREAMS AND THEIR BUFFERS OF AT LEAST 100 FEET FROM THE
31 STREAM CHANNEL;

32 (IV) COASTAL BAYS AND THEIR BUFFERS;

33 (V) STEEP SLOPES; AND

Council Bill 26-0161

1 (VI) CRITICAL HABITATS;

2 (2) CONTIGUOUS FOREST THAT CONNECTS THE LARGEST UNDEVELOPED OR MOST
3 VEGETATED TRACTS OF LAND WITHIN AND ADJACENT TO THE SITE;

4 (3) FOREST SUITABLE FOR FOREST INTERIOR-DWELLING SPECIES;

5 (4) FOREST LOCATED IN A TIER II OR TIER III HIGH QUALITY WATERSHED, AS
6 IDENTIFIED BY THE STATE DEPARTMENT OF THE ENVIRONMENT;

7 (5) FOREST LOCATED IN A WATER RESOURCE PROTECTION ZONE, A RESERVOIR
8 WATERSHED, OR A WELLHEAD PROTECTION AREA, AS IDENTIFIED BY THE
9 DEPARTMENT; AND

10 (6) FORESTS IN URBAN AREAS THAT ARE DELINEATED IN THE PRIORITY URBAN FOREST
11 MAP IN THE MANUAL, AND:

12 (I) PROVIDE WILDLIFE HABITAT;

13 (II) MITIGATE FLOODING;

14 (III) MITIGATE HIGH TEMPERATURES; OR

15 (IV) MITIGATE POLLUTION.

16 (B) *REASONABLE EFFORTS TO PROTECT REQUIRED.*

17 (1) *IN GENERAL.*

18 AN APPLICANT SHALL MAKE REASONABLE EFFORTS TO PROTECT THE TREES, SHRUBS,
19 PLANTS, AND SPECIFIC AREAS DETAILED IN SUBSECTION (A) OF THIS SECTION.

20 (2) *STANDARDS.*

21 TO DEMONSTRATE THAT THEY HAVE MADE REASONABLE EFFORTS, AN APPLICANT
22 THAT PROPOSES TO CLEAR A PRIORITY RETENTION AREA SHALL:

23 (I) PROVIDE EVIDENCE THAT ALTERNATIVE SITE LAYOUTS AND CONSTRUCTION
24 TECHNIQUES TO RETAIN ADDITIONAL PRIORITY RETENTION AREAS WERE
25 EXHAUSTED;

26 (II) DESCRIBE THE SPECIAL CONDITIONS PECULIAR TO THE SUBJECT PROPERTY
27 THAT REQUIRE PRIORITY RETENTION AREA CLEARING;

28 (III) VERIFY THAT THE PROPOSED PRIORITY RETENTION AREA CLEARING IS NOT
29 BASED ON CONDITIONS OR CIRCUMSTANCES CAUSED BY THE APPLICANT'S OWN
30 ACTIONS;

31 (IV) VERIFY THAT THE PRIORITY RETENTION AREA CLEARING WILL NOT RESULT:

Council Bill 26-0161

- 1 (A) IN ADDITIONAL THREATS TO PUBLIC SAFETY;
- 2 (B) IN EXTRAORDINARY PUBLIC EXPENSE; OR
- 3 (C) CONFLICT WITH EXISTING LAWS OR REGULATIONS; AND
- 4 (D) DEMONSTRATE THAT THE PROPOSED PRIORITY RETENTION AREA
- 5 CLEARING IS NOT A MEANS TO AVOID INCREASED COST OR AVOID
- 6 INCONVENIENCE ASSOCIATED WITH MEETING THE REQUIREMENTS OF
- 7 THIS DIVISION IV.

8 (C) *PRIORITIES THAT REQUIRE ADDITIONAL SCRUTINY.*

9 THE FOLLOWING TREES, SHRUBS, PLANTS, AND SPECIFIC AREAS ARE A HIGHER PRIORITY
10 FOR RETENTION AND PROTECTION:

- 11 (1) TREES, SHRUBS, OR PLANTS IDENTIFIED ON THE LIST OF RARE, THREATENED, AND
- 12 ENDANGERED SPECIES OF THE U.S. FISH AND WILDLIFE SERVICE OR THE
- 13 DEPARTMENT;
- 14 (2) TREES THAT ARE PART OF A HISTORIC SITE, ASSOCIATED WITH A HISTORIC
- 15 STRUCTURE, OR DESIGNATED BY THE STATE DEPARTMENT OF NATURAL
- 16 RESOURCES OR THE DEPARTMENT AS A NATIONAL, STATE, OR LOCAL CHAMPION
- 17 TREE; AND
- 18 (3) TREES HAVING A DIAMETER MEASURED AT 4.5 FEET ABOVE THE GROUND OF:
 - 19 (i) 20 INCHES; OR
 - 20 (ii) 75% OF THE DIAMETER, MEASURED AT 4.5 FEET ABOVE THE GROUND, OF
 - 21 THE CURRENT STATE CHAMPION TREE OF THAT SPECIES, AS DESIGNATED
 - 22 BY THE STATE DEPARTMENT OF NATURAL RESOURCES.

23 (D) *ADDITIONAL SCRUTINY STANDARDS.*

24 (1) *IN GENERAL.*

25 AN APPLICANT SHALL MAKE BEST EFFORTS TO PROTECT THE TREES, SHRUBS, PLANTS,
26 AND SPECIFIC AREAS DETAILED IN SUBSECTION (C) OF THIS SECTION.

27 (2) *STANDARDS.*

28 TO DEMONSTRATE THAT BEST EFFORTS HAVE BEEN MADE, AN APPLICANT WHO
29 PROPOSES TO CLEAR A HIGHER PRIORITY RETENTION AREA AS DESCRIBED IN
30 SUBSECTION (C) OF THIS SECTION, SHALL:

- 31 (i) MEET THE STANDARDS ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION;
- 32 AND

Council Bill 26-0161

1 (II) FOR PRIORITY RETENTION AREAS DESCRIBED IN SUBSECTION (C)(1) OR (C)(2) OF
2 THIS SECTION, RECEIVE WRITTEN APPROVAL FROM THE DIRECTOR OF
3 PLANNING; OR

4 (III) FOR PRIORITY RETENTION AREAS DESCRIBED IN SUBSECTION (C)(3) OF THIS
5 SECTION, RECEIVE A VARIANCE FOR SPECIMEN TREE REMOVAL, AS DESCRIBED
6 IN THE MANUAL.

7 **§ 45-5. PRIORITY FOR AFFORESTATION OR REFORESTATION.**

8 FOR THE PURPOSES OF ESTABLISHING PRIORITIES RELATING TO AFFORESTATION AND
9 REFORESTATION, THE DEPARTMENT SHALL FAVORABLY REVIEW THE FOLLOWING ACTIONS AS
10 THEY MAY BE INCORPORATED INTO A FOREST CONSERVATION PLAN:

- 11 (1) ESTABLISH OR ENHANCE FOREST BUFFERS ADJACENT TO INTERMITTENT AND
12 PERENNIAL STREAMS AND COASTAL BAYS TO WIDTHS OF AT LEAST 50 FEET;
- 13 (2) ESTABLISH OR INCREASE EXISTING FORESTED CORRIDORS TO CONNECT EXISTING
14 FORESTS WITHIN OR ADJACENT TO THE SITE AND, WHERE PRACTICAL, ENSURE THAT
15 FORESTED CORRIDORS ARE A MINIMUM OF 300 FEET IN WIDTH TO FACILITATE WILDLIFE
16 MOVEMENT;
- 17 (3) ESTABLISH OR ENHANCE FOREST BUFFERS ADJACENT TO CRITICAL HABITATS WHERE
18 APPROPRIATE;
- 19 (4) ESTABLISH OR ENHANCE FORESTED AREAS IN 100-YEAR FLOODPLAINS;
- 20 (5) ESTABLISH PLANTINGS TO STABILIZE SLOPES OF 25% OR GREATER AND SLOPES OF 15%
21 OR GREATER WITH A SOIL ERODIBILITY FACTOR, ALSO KNOWN AS “K-VALUE” OR “K-
22 FACTOR”, GREATER THAN 0.35 INCLUDING THE SLOPES OF RAVINES OR OTHER
23 NATURAL DEPRESSIONS;
- 24 (6) ESTABLISH BUFFERS ADJACENT TO AREAS OF DIFFERING LAND USE OR ADJACENT TO
25 HIGHWAYS OR UTILITY RIGHTS-OF-WAY WHERE APPROPRIATE;
- 26 (7) ESTABLISH FOREST AREAS ADJACENT TO EXISTING FORESTS SO AS TO INCREASE THE
27 OVERALL AREA OF CONTIGUOUS FOREST COVER, WHEN APPROPRIATE; AND
- 28 (8) USE NATIVE PLANT MATERIALS FOR AFFORESTATION OR REFORESTATION, WHEN
29 APPROPRIATE.

30 **§ 45-6. CLEARING PRIORITY RETENTION AREAS.**

31 (A) *PROPOSAL TO CLEAR — REQUIREMENTS.*

32 AN APPLICANT WHO PROPOSES TO CLEAR A PRIORITY RETENTION AREA AS PART OF A
33 FOREST CONSERVATION PLAN SHALL, WITH THE ASSOCIATED FOREST STAND DELINEATION,
34 SUBMIT A REPORT TO THE DEPARTMENT THAT CONTAINS:

Council Bill 26-0161

1 (1) A DESCRIPTION OF THE AREA WHERE THE CLEARING OF A PRIORITY RETENTION
2 AREA IS PROPOSED;

3 (2) A PLAN FOR CLEARING, RETENTION, AND MITIGATION; AND

4 (3) A WRITTEN ANALYSIS DEMONSTRATING, TO THE SATISFACTION OF THE
5 DEPARTMENT, THAT THE APPLICANT IS IN COMPLIANCE WITH § 45-4 {"PRIORITY
6 FOR RETENTION AND PROTECTION"} OF THIS SUBTITLE.

7 (B) *PROCEDURE FOR REVIEW OF PROPOSAL.*

8 (1) PRIOR TO APPROVING THE CLEARING OF A PRIORITY RETENTION AREA AND THE
9 ASSOCIATED FOREST CONSERVATION PLAN, THE DEPARTMENT SHALL ISSUE TO THE
10 STATE DEPARTMENT OF NATURAL RESOURCES WRITTEN FINDINGS, JUSTIFICATION,
11 AND DETERMINATION FOR A REQUEST TO CLEAR A PRIORITY RETENTION AREA
12 DESCRIBED IN § 45-4 {"PRIORITY FOR RETENTION AND PROTECTION"} OF THIS
13 SUBTITLE.

14 (2) AFTER RECEIVING THE STATE'S REVIEW OF THE MATERIALS DETAILED IN
15 PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT SHALL ISSUE A FINAL
16 DETERMINATION OF APPROVAL OR DENIAL OF THE PROPOSED CLEARING OF A PRIORITY
17 RETENTION AREA, INCORPORATING ANY RECOMMENDATIONS FROM THE STATE.

18 (C) *APPEAL OF FINAL DETERMINATION.*

19 (1) AN APPLICANT MAY APPEAL THE DEPARTMENT'S FINAL DETERMINATION TO THE
20 PLANNING COMMISSION.

21 (2) AN APPLICANT HAS UP TO 30 DAYS TO SUBMIT AN APPEAL TO THE PLANNING
22 COMMISSION FOLLOWING THE DEPARTMENT'S ISSUANCE OF A FINAL DETERMINATION .

23 (3) ANY REVIEW BY THE PLANNING COMMISSION SHALL BE LIMITED TO THE RECORD
24 COMPILED BY THE DEPARTMENT.

25 (4) THE DETERMINATION OF THE PLANNING COMMISSION IS FINAL AND BINDING.

26 (5) IN THE EVENT THAT THE PLANNING COMMISSION UPHOLDS THE DEPARTMENT'S FINAL
27 DETERMINATION TO DENY AN APPLICANT'S PROPOSAL TO CLEAR A PRIORITY
28 RETENTION AREA, AN APPLICANT SHALL RESUBMIT A REVISED PRIORITY FOREST
29 CLEARING PROPOSAL REPORT TO THE DEPARTMENT THAT ADDRESSES BOTH
30 DEPARTMENT AND PLANNING COMMISSION COMMENTS.

31 **§ 45-7. [45-4.] Security required.**

32 Before the issuance of a grading or building permit, a person required to conduct
33 afforestation, reforestation, or specimen tree mitigation under this Division IV shall furnish
34 financial security in the form of a bond, an irrevocable letter of credit, or other security
35 approved by the Department, as provided in the [Baltimore City Conservation Supplement to
36 the State Conservation] Manual.

Council Bill 26-0161

**SUBTITLE 46. AUTHORIZED ALTERNATIVES TO AFFORESTATION, REFORESTATION,
AND SPECIMEN TREE MITIGATION**

§ 46-1. FOREST CONSERVATION FUND.

(A) FOREST CONSERVATION FUND ESTABLISHED.

THERE IS HEREBY CREATED A BALTIMORE CITY FOREST CONSERVATION FUND THAT MEETS THE REQUIREMENTS OF STATE NATURAL RESOURCES ARTICLE, § 5-1610(H-1) {"FOREST CONSERVATION FUND"}.

(B) WHEN PAYMENTS IN LIEU PERMITTED.

(1) IN GENERAL.

IF REFORESTATION, AFFORESTATION, OR SPECIMEN TREE MITIGATION IS NOT POSSIBLE, AND APPROPRIATE CREDITS GENERATED BY A FOREST MITIGATION BANK OR THROUGH THE RESTORATION OF DEGRADED FORESTS IN THE CITY ARE NOT AVAILABLE, THE APPLICANT MAY MAKE A PAYMENT INTO THE FOREST CONSERVATION FUND.

(2) PAYMENT PERMITTED WHEN.

THE DEPARTMENT MAY ACCEPT A PAYMENT INTO THE CONSERVATION FUND UNDER THE FOLLOWING CIRCUMSTANCES WHEN:

- (I) SATISFYING ALL OR A PORTION OF THE REQUIRED REFORESTATION, AFFORESTATION, OR SPECIMEN TREE MITIGATION IS TECHNICALLY INFEASIBLE;*
- (II) AN ACCEPTABLE PLANTING SITE CANNOT BE FOUND ON OTHER LAND WITHIN BALTIMORE CITY;*
- (III) THE AMOUNT OF APPROPRIATE CREDITS GENERATED THROUGH THE RESTORATION OF ON-SITE OR OFF-SITE DEGRADED FOREST ARE INSUFFICIENT UNDER THE STANDARDS OF THIS DIVISION IV; AND*
- (IV) IT IS INFEASIBLE FOR THE APPLICANT TO PURCHASE REQUIRED CREDITS GENERATED FROM A FOREST MITIGATION BANK IN THE CITY.*

(C) CONTRIBUTION RATE.

(1) IN LIEU OF REFORESTATION OR AFFORESTATION.

A PERSON PERMITTED BY SUBSECTION (B) OF THIS SECTION TO CONTRIBUTE TO THIS FUND IN LIEU OF REFORESTATION OR AFFORESTATION SHALL MAKE A PAYMENT TO THE BALTIMORE CITY CONSERVATION FUND OF \$70,000 PER ACRE OF THE AREA REQUIRING PLANTING OR AT A RATE DETERMINED AND ADJUSTED PERIODICALLY BY THE PLANNING COMMISSION AND APPROVED BY THE BOARD OF ESTIMATES.

Council Bill 26-0161

1 (2) *IN LIEU OF SPECIMEN TREE MITIGATION.*

2 A PERSON PERMITTED BY § 46-2 OF THIS SUBTITLE TO CONTRIBUTE TO THIS FUND IN
3 LIEU OF SPECIMEN TREE MITIGATION SHALL MAKE A PAYMENT TO THE BALTIMORE
4 CITY CONSERVATION FUND OF \$350 PER INCH OF REQUIRED MITIGATION, OR AT A
5 RATE AS DETERMINED AND ADJUSTED PERIODICALLY BY THE PLANNING COMMISSION
6 AND APPROVED BY THE BOARD OF ESTIMATES.

7 (D) *WHEN PAYABLE.*

8 MONEY CONTRIBUTED TO THE FUND BY AN APPLICANT IN LIEU OF AFFORESTATION,
9 REFORESTATION, OR SPECIMEN TREE MITIGATION SHALL BE PAID AT THE TIME OF THE
10 ISSUANCE OF THE GRADING OR BUILDING PERMIT FOR THE DEVELOPMENT PROJECT.

11 (E) *PERIOD FOR CITY REFORESTATION, ETC.*

12 (1) *PERIOD FOR CITY ACTION.*

13 THE CITY SHALL ACCOMPLISH THE REFORESTATION OR AFFORESTATION FOR THE
14 EQUIVALENT NUMBER OF ACRES FOR WHICH THE MONEY IS DEPOSITED WITHIN 5 YEARS
15 AFTER RECEIPT OF THE MONEY.

16 (2) *REFUND.*

17 AT THE END OF THAT TIME, ANY PART THAT HAS NOT BEEN USED OR ENCUMBERED TO
18 MEET THE AFFORESTATION OR REFORESTATION REQUIREMENTS SHALL BE RETURNED
19 TO THE PERSON WHO PROVIDED THE MONEY TO BE USED FOR DOCUMENTED TREE
20 PLANTING IN THE CITY BEYOND THAT REQUIRED BY THIS DIVISION IV OR OTHER
21 APPLICABLE STATUTES.

22 (F) *MANAGEMENT OF FUND.*

23 (1) *IN GENERAL.*

24 MONEY CONTRIBUTED UNDER THIS TITLE:

25 (I) MAY BE USED ONLY FOR REFORESTATION AND AFFORESTATION, INCLUDING
26 SITE IDENTIFICATION, ACQUISITION, PREPARATION, MANAGEMENT, AND
27 MAINTENANCE OF EXISTING FORESTS, AND ACHIEVING URBAN CANOPY GOALS;

28 (II) SHALL BE DEPOSITED IN A SEPARATE FOREST CONSERVATION FUND; AND

29 (III) SHALL NOT REVERT TO THE GENERAL FUND.

30 (2) *SITE SELECTION.*

31 SITES SELECTED FOR USE OF FUNDS SHALL BE LOCATED IN THE CITY OF BALTIMORE.

Council Bill 26-0161

§ 46-2. FOREST MITIGATION BANK.

(A) USE OF FOREST MITIGATION BANK.

- (1) AN APPLICANT WHO DEMONSTRATES TO THE SATISFACTION OF THE DEPARTMENT THAT REQUIREMENTS FOR REFORESTATION OR AFFORESTATION ONSITE OR OFFSITE CANNOT BE REASONABLY ACCOMPLISHED MAY CONTRIBUTE CREDITS FROM A FOREST MITIGATION BANK.
- (2) AN APPLICANT SHALL CONTRIBUTE 1 CREDIT FOR EACH 10TH OF AN ACRE OF AN AREA OF REQUIRED PLANTING.
- (3) THE CREDITS SHALL BE DEBITED FROM AN APPROVED FOREST MITIGATION BANK WITHIN 90 DAYS AFTER PROJECT COMPLETION.

(B) QUALIFYING FOREST MITIGATION BANKS.

THE DEPARTMENT MAY ONLY ACCEPT CREDITS FROM MITIGATION BANKS THAT USE:

- (1) QUALIFIED CONSERVATION LOCATED IN PRIORITY RETENTION AREAS AS IDENTIFIED IN § 45-4 {"PRIORITY FOR RETENTION AND PROTECTION"} OF THIS SUBTITLE; OR
- (2) NEWLY PLANTED FOREST LOCATED IN PRIORITY AFFORESTATION OR REFORESTATION AREAS AS IDENTIFIED IN § 45-5 {"PRIORITY FOR AFFORESTATION OR REFORESTATION"} OF THIS SUBTITLE, OR AS IDENTIFIED IN A COMPREHENSIVE PLAN ADOPTED BY THE DEPARTMENT.

(C) ESTABLISHING A FOREST MITIGATION BANK.

- (1) A PERSON MAY CREATE A FOREST MITIGATION BANK FROM WHICH AN APPLICANT MAY PURCHASE CREDITS TO MEET THE AFFORESTATION AND REFORESTATION REQUIREMENTS OF THIS DIVISION IV.
- (2) THE FOREST MITIGATION BANK SHALL:
 - (I) AFFOREST OR REFOREST AN AREA OF LAND IN ACCORDANCE WITH A FOREST MITIGATION BANK AGREEMENT THAT IS ENTERED INTO BY THE OWNER OF A FOREST MITIGATION BANK AND THE DEPARTMENT;
 - (II) BE PROTECTED BY AN EASEMENT, DEED RESTRICTIONS, OR COVENANTS THAT REQUIRE THE LAND IN THE BANK TO REMAIN FORESTED IN PERPETUITY AND ARE ENFORCEABLE BY THE DEPARTMENT AND THE STATE DEPARTMENT OF NATURAL RESOURCES;
 - (III) LIMIT THE USE OF THE LAND IN THE BANK TO THOSE ACTIVITIES THAT ARE NOT INCONSISTENT WITH FOREST CONSERVATION, SUCH AS RECREATIONAL ACTIVITIES, FOREST MANAGEMENT UNDER A FOREST CONSERVATION AND MANAGEMENT PROGRAM UNDER § 8-211 OF THE STATE TAX-PROPERTY ARTICLE, OR ACTIVITIES SPECIFIED IN A FOREST MANAGEMENT PLAN PREPARED BY A LICENSED FORESTER AND APPROVED BY THE DEPARTMENT;

Council Bill 26-0161

1 (IV) USE NATIVE PLANT MATERIALS FOR AFFORESTATION OR REFORESTATION
2 UNLESS INAPPROPRIATE; AND

3 (V) CAUSE TREES TO BE PLANTED THAT:

4 (A) ESTABLISH OR ENHANCE FORESTED BUFFERS ADJACENT TO
5 INTERMITTENT AND PERENNIAL STREAMS AND COASTAL BAYS TO
6 WIDTHS OF AT LEAST 50 FEET;

7 (B) ESTABLISH OR INCREASE EXISTING FORESTED CORRIDORS THAT,
8 WHERE PRACTICAL, ARE A MINIMUM OF 300 FEET IN WIDTH TO
9 FACILITATE WILDLIFE MOVEMENT, TO CONNECT EXISTING FORESTS
10 WITHIN OR ADJACENT TO THE SITE;

11 (C) ESTABLISH OR ENHANCE FOREST BUFFERS ADJACENT TO CRITICAL
12 HABITATS WHERE APPROPRIATE;

13 (D) ESTABLISH OR ENHANCE FORESTED AREAS IN 100-YEAR FLOODPLAINS;

14 (E) STABILIZE SLOPES OF 25 % OR GREATER;

15 (F) STABILIZE SLOPES OF 15% OR GREATER WITH A SOIL K VALUE
16 GREATER THAN 0.35, INCLUDING THE SLOPES OF RAVINES OR OTHER
17 NATURAL DEPRESSIONS;

18 (G) ESTABLISH BUFFERS ADJACENT TO AREAS OF DIFFERING LAND USE,
19 WHERE APPROPRIATE, OR ADJACENT TO HIGHWAYS OR UTILITY
20 RIGHTS-OF-WAY; OR

21 (H) ESTABLISH FOREST AREAS ADJACENT TO EXISTING FORESTS TO
22 INCREASE THE OVERALL AREA OF CONTIGUOUS FOREST COVER, WHEN
23 APPROPRIATE.

24 (3) A PERSON PROPOSING TO CREATE A FOREST MITIGATION BANK SHALL SUBMIT TO THE
25 DEPARTMENT:

26 (I) A COMPLETED APPLICATION ON A FORM APPROVED BY THE DEPARTMENT THAT
27 HAS BEEN SIGNED BY AN AUTHORIZED INDIVIDUAL IN CONFORMANCE WITH
28 COMAR 08.19.04.02I;

29 (II) A FOREST MITIGATION BANK PLAN THAT CONTAINS:

30 (A) A VICINITY MAP OF THE PROPOSED MITIGATION BANK SITE;

31 (B) A SIMPLIFIED FOREST STAND DELINEATION WHICH MEETS THE
32 CRITERIA OF COMAR 08.19.04.02;

33 (C) A DETAILED AFFORESTATION OR REFORESTATION PLAN PREPARED BY
34 A LICENSED MARYLAND FORESTER, A LICENSED LANDSCAPE
35 ARCHITECT, OR A QUALIFIED PROFESSIONAL, THAT INCLUDES:

Council Bill 26-0161

1. A TIMETABLE;
2. A DESCRIPTION OF THE SITE AND SOIL PREPARATION NEEDED;
AND
3. THE SPECIES, SIZE, AND SPACING OF ALL PLANTINGS; AND

(D) A PROPOSED 3-YEAR MAINTENANCE AGREEMENT THAT:

1. SETS FORTH HOW THE AREAS AFFORESTED OR REFORESTED WILL BE MAINTAINED TO ENSURE PROTECTION AND SATISFACTORY ESTABLISHMENT;
2. COMPLIES WITH COMAR 08.19.04.05C(4)(A); AND
3. INCLUDES WATERING AND REINFORCEMENT PLANTING PROVISIONS IF SURVIVAL FALLS BELOW REQUIRED STANDARDS;

(III) A COPY OF THE DEED TO THE PROPERTY;

(IV) A SURVEY OR OTHER LEGALLY SUFFICIENT DESCRIPTION OF THE BANK SITE FOR INCLUSION IN THE DEEDS OF EASEMENT, DEED RESTRICTIONS, OR COVENANTS;

(V) A TITLE REPORT OR OTHER ASSURANCE THAT CERTIFIES:

(A) THE PROPERTY IS NOT ENCUMBERED BY ANY COVENANTS OR OTHER TYPES OF RESTRICTIONS WOULD 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 BY THE DEPARTMENT AND ITS ASSIGNEES TO INSPECT THE FOREST MITIGATION BANK; AND

(VI) A 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 OFFSITE AFFORESTATION OR REFORESTATION REQUIREMENTS.

(4) THE OWNER OF AN APPROVED FOREST MITIGATION BANK SHALL ENTER INTO AN AGREEMENT WITH THE DEPARTMENT THAT CONTAINS:

(I) THE APPROVED REFORESTATION OR AFFORESTATION PLAN;

(II) THE APPROVED SYSTEM FOR MARKING AND TRACKING WHICH PORTIONS OF THE BANK HAVE BEEN DEBITED; AND

(III) AN ACKNOWLEDGMENT THAT THE BANK MAY NOT DEBIT ANY PORTION OF THE AFFORESTED OR REFORESTED LAND UNTIL 2 YEARS OF SUCCESSFUL GROWTH HAS BEEN ACHIEVED UNLESS THE OWNER OF THE FOREST MITIGATION BANK HAS POSTED A BOND OR ALTERNATE FORM OF SECURITY.

Council Bill 26-0161

1 (D) *CREDITS IN MITIGATION BANK.*

2 (1) THE DEPARTMENT MAY NOT DEBIT A CREDIT FROM A MITIGATION BANK UNTIL
3 CONSTRUCTION OR QUALIFIED CONSERVATION OF THE MITIGATION BANK IS COMPLETE.

4 (2) THE OWNER OF A MITIGATION BANK THAT REQUIRES CONSTRUCTION SHALL MAINTAIN
5 SUFFICIENT CREDITS IN RESERVE TO COVER ANTICIPATED EXPENSES OF COMPLETION
6 OF THE MITIGATION BANK.

7 **Subtitle 47. Variances**

8 **§ 47-1. “Variance” defined; When request required.**

9 “Variance” means the process of obtaining approval for a forest conservation plan that does
10 not strictly conform to the standards and requirements set forth in this Division IV. A
11 variance must be requested in advance of approval of a Forest Conservation Plan and in
12 advance of any activity requiring approval of a Forest Conservation Plan.

13 **§ 47-2. When authorized.**

14 Variances from this Division IV may be granted by the [Planning Commission,] DIRECTOR
15 OF PLANNING, if the applicant demonstrates that enforcement would result in unwarranted
16 hardship to the applicant.

17 **§ 47-3. Applications.**

18 An applicant for a variance shall:

19 (1) describe the special conditions peculiar to the property which would cause the
20 unwarranted [hardship;] HARDSHIP, FOR WHICH INCREASED COST OR INCONVENIENCE
21 OF MEETING THE REQUIREMENTS OF THIS DIVISION IV DO NOT CONSTITUTE AN
22 “UNWARRANTED HARDSHIP;

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

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

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

29 (5) verify that the need for the variance is not as a result of a violation of any portion of
30 Division IV;

31 (6) verify that the request does not arise from a condition relating to land or building use,
32 either permitted or nonconforming, on a neighboring property;

33 (7) verify that the granting of a variance will not adversely affect water quality; and

Council Bill 26-0161

1 (8) such other criteria that, subject to Title 4 {"Administrative Procedure Act –
2 Regulations"} of the City General Provisions Article, the Planning Commission may
3 set by rule or regulation.

4 **Subtitle 48. Enforcement; Penalties**

5 **§ 48-1. [HCD] DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT to enforce.**

6 This Division IV may be enforced by the Department of Housing and Community
7 Development in the manner provided in § 104 {"Duties and powers of Building Official"} of
8 the Baltimore City Building Code.

9 **§ 48-2. Fines.**

10 (a) *Imposition.*

11 A person found to be in noncompliance with this Division IV, or the regulations adopted
12 thereunder, the forest conservation plan, or the associated 2-year maintenance agreement,
13 shall be fined a penalty of [\$120,000] \$140,000 per acre of the area found to be in
14 noncompliance with required forest conservation, or at a rate as determined and adjusted
15 periodically by the Planning Commission and approved by the Board of Estimates.

16 (b) *Use of funds.*

17 Money collected under subsection (a) of this section shall be deposited in the Forest
18 Conservation Fund established by the Director of Finance, and may be used by the City
19 for purposes related to implementing this Division IV.

20 **§ 48-3. Civil penalties.**

21 (a) *In general.*

22 In addition, any person who violates any provision of this Division IV or any regulation
23 or order adopted or issued thereunder, is liable for a penalty not exceeding \$1,000 per
24 violation, which may be recovered in a civil action brought by the City.

25 (b) *Each day a separate offense.*

26 Each day a violation continues is a separate violation.

27 **§ 48-4. Injunctions.**

28 The Department may request the City [Solicitor] to seek an injunction requiring a person to
29 cease violation of this title and to take corrective action to restore or reforest an area.

30 **SUBTITLES 49. AND 50. {RESERVED}**

31 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on
32 July 1, 2026.