

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

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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

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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

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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.

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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.]

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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.

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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;]

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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.

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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) [(1)] *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.]

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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.

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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”}.

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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.

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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.*]

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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

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- 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.]

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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.

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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.

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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:

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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.

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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.

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### § 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;

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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.

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**§ 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

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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.

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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;

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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;

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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.

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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.

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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 (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

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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:

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- 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

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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:

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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.

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**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.

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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.

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**§ 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;

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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:

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

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

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

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

13                                  (IV) A SURVEY OR OTHER LEGALLY SUFFICIENT DESCRIPTION OF THE BANK SITE FOR

14                                  INCLUSION IN THE DEEDS OF EASEMENT, DEED RESTRICTIONS, OR COVENANTS;

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

16                                  (A) THE PROPERTY IS NOT ENCUMBERED BY ANY COVENANTS OR OTHER

17                                  TYPES OF RESTRICTIONS WOULD IMPAIR THE PROPERTY’S USE AS A

18                                  FOREST MITIGATION BANK; AND

19                                  (B) THERE IS LEGALLY SUFFICIENT ACCESS TO THE FOREST MITIGATION

20                                  BANK SITE WHICH CAN BE USED BY THE DEPARTMENT AND ITS

21                                  ASSIGNEES TO INSPECT THE FOREST MITIGATION BANK; AND

22                                  (VI) A DESCRIPTION OF THE SYSTEM TO BE USED BY THE PERSON OWNING AND

23                                  OPERATING THE FOREST MITIGATION BANK TO IDENTIFY AND KEEP TRACK OF

24                                  WHICH PORTIONS OF THE BANK HAVE BEEN DEBITED TO MEET AN APPLICANT’S

25                                  OFFSITE AFFORESTATION OR REFORESTATION REQUIREMENTS.

26                                  (4) THE OWNER OF AN APPROVED FOREST MITIGATION BANK SHALL ENTER INTO AN

27                                  AGREEMENT WITH THE DEPARTMENT THAT CONTAINS:

28                                  (I) THE APPROVED REFORESTATION OR AFFORESTATION PLAN;

29                                  (II) THE APPROVED SYSTEM FOR MARKING AND TRACKING WHICH PORTIONS OF THE

30                                  BANK HAVE BEEN DEBITED; AND

31                                  (III) AN ACKNOWLEDGMENT THAT THE BANK MAY NOT DEBIT ANY PORTION OF THE

32                                  AFFORESTED OR REFORESTED LAND UNTIL 2 YEARS OF SUCCESSFUL GROWTH

33                                  HAS BEEN ACHIEVED UNLESS THE OWNER OF THE FOREST MITIGATION BANK

34                                  HAS POSTED A BOND OR ALTERNATE FORM OF SECURITY.

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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

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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.