

**COUNTY COUNCIL OF CECIL COUNTY, MARYLAND  
LEGISLATIVE SESSION 2020-12**

**BILL NO. 2020-06**

**Title of Bill:** Amendment – Forest Conservation Regulations

**Synopsis:** A Bill to amend the Cecil County Forest Regulations, Article VI, Forest Conservation Plan, to add text to Final Forest Conservation Plan; Article VII, Afforestation and Retention, to add text to Afforestation Requirement; Article X, Payment Instead of Afforestation and Reforestation, to add text to Forest Conservation Fund; Article X-3, Forest Retention Banks, to add new sections of Establishing Forest Retention Banks and Using a Forest Retention Bank.

**Introduced by:** Council President at the request of the Executive

**Introduced and order posted on:** June 9, 2020

**Public hearing scheduled on:** July 7, 2020 at 7:00 p.m.

**Consideration scheduled on:** July 21, 2020

By: \_\_\_\_\_  
Council Manager

**PUBLIC HEARING**

Notice of time and place of public hearing and title of Bill having been posted by (date) at the County Administration Building, 200 Chesapeake Blvd., Elkton, and having been published according to the Charter on (date), a public hearing was held on (date) and concluded on (date).

By: \_\_\_\_\_  
Council Manager

**Explanation:** CAPITAL LETTERS INDICATE LANGUAGE ADDED TO EXISTING DOCUMENT  
~~Strike through~~ indicates language deleted from existing document  
Underlining indicates language added to document by amendment.  
~~Double Strike through~~ indicates language stricken from document by amendment.

1           **WHEREAS**, the Natural Resources Article of the Annotated Code of Maryland, Title 5, Forests and  
2 Parks, Subtitle 16. Forest Conservation, Section 5-1603 empowers the Counties to develop a local forest  
3 conservation program, consistent with the intent, requirements, and standards of the State Forest  
4 Conservation Program; and

5           **WHEREAS**, pursuant to Sections 5-1612 through 5-1625 of the Natural Resources Article, the Cecil  
6 County Department of Planning and Zoning prepared the Forest Conservation Regulations, which was  
7 adopted by the Board of County Commissioners of Cecil County on December 9, 1992; and

8           **WHEREAS**, the Department of Planning and Zoning has recommended amendments to the Cecil  
9 County Forest Conservation Regulations; and

10           **WHEREAS**, a public hearing on these proposed changes was held before the Planning  
11 Commission on Monday, May 18, 2020; and

12           **WHEREAS**, the Planning Commission recommended approval of the amendments to the Forest  
13 Conservation Regulations.

14           **NOW THEREFORE, BE IT HEREBY ENACTED BY THE COUNTY COUNCIL OF CECIL COUNTY,**  
15 **MARYLAND**, that the Cecil County Forest Conservation Regulations shall be amended as follows:

16 Article VI. Forest Conservation Plan

17 Section 6.3     The Final Forest Conservation Plan.

18 A.     A final forest conservation plan shall be prepared by a licensed forester, a licensed landscape  
19 architect, or a qualified professional who meets the requirements stated in Article XVIII of these  
20 regulations.

21 B.     A final forest conservation plan shall:

22         1)     Be submitted with the following:

23             i.     A final subdivision plan,

24             ii.    A final project plan,

25             iii.   A site plan,

26             iv.    An application for a grading permit, or

27             v.     An application for a sediment control permit;

28         2)     Include the substantive elements required under Section 6.2B of this article with any  
29 necessary amendments to the preliminary forest conservation plan as finalized elements of  
30 the forest conservation plan; and



61 Except for activities exempted in Section 3.2 of these regulations, a person making application after the  
62 effective date of these regulations for subdivision, site plan or project plan approval, a grading permit, or  
63 a sediment control permit for a tract involving land of 40,000 square feet or greater, shall:

64 A. Conduct afforestation on the lot or parcel in accordance with the following:

65 1) A tract having less than 20 percent of the net tract acreage in forest cover shall be  
66 afforested up to at least 20 percent of the net tract area for the following land use  
67 categories:

68 a) Agriculture and resource areas, and

69 b) Medium density residential areas;

70 2) A tract with less than 15 percent of its net tract area in forest cover shall be  
71 afforested up to at least 15 percent of the net tract area for the following land use  
72 categories:

73 a) Institutional development areas,

74 b) High density residential areas,

75 c) Mixed use and planned unit development areas, and

76 d) Commercial and industrial use areas;

77 B. Comply with the following when cutting into forest cover that is currently below  
78 the afforestation percentages described in Section 7.1(A)(1) and (2) of this article:

79 1) The required afforestation level shall be determined by the amount of forest existing  
80 before cutting or clearing begins; and

81 2) Forest cut or cleared below the required afforestation level shall be reforested or  
82 afforested at a 2 to 1 ratio and added to the amount of afforestation necessary to reach  
83 the minimum required afforestation level, as determined by the amount of forest  
84 existing before cutting or clearing began.

85 3) **RETENTION MAY BE USED FOR AFFORESTATION REQUIREMENTS PROVIDED:**

86 a) **THE RETENTION AREA IS LOCATED ON THE SAME SITE,**

87 b) **A STANDARD FOREST STRAND DELINEATION HAS BEEN PREPARED FOR THE**  
88 **PROPOSED RETENTION AREA, AND,**

89 c) **SHALL BE RETAINED AT A 3 TO 1 RATIO TO THE AMOUNT OF AFFORESTATION**  
90 **NECESSARY TO REACH THE MINIMUM REQUIRED AFFORESTATION LEVEL, AS**

91 **DETERMINED BY THE AMOUNT OF AFFORESTATION REQUIRED FROM THE NET**  
92 **TRACT AREA.**

93 Article X. Payment Instead of Afforestation and Reforestation

94 Section 10.1. Forest Conservation Fund

- 95 A. If a person subject to these regulations believes that requirements for reforestation or  
96 afforestation onsite or offsite cannot be reasonably accomplished, the person shall submit a  
97 written request to the Department requesting that payment into the Forest Conservation Fund be  
98 allowed.
- 99 B. If there is no local forest conservation fund established, a person may contribute to the State fund.  
100 The Department of Natural Resources shall determine when contribution is allowable under  
101 COMAR 08.19.02.02I.
- 102 **C. PRIOR TO ESTABLISHING A LOCAL FEE IN LIEU PROGRAM THE COUNTY MUST COMPLY WITH THE**  
103 **REQUIREMENTS OF THE NATURAL RESOURCES ARTICLE 5-1610, INCLUDING ESTABLISHMENT OF**  
104 **A GENERAL PLAN IDENTIFYING APPROPRIATE AND POTENTIALLY AVAILABLE AREAS FOR**  
105 **MITIGATION PROJECTS; ACCOUNTING PROCEDURES FOR ACCURATELY TRACKING MONEY**  
106 **RECEIVED AND EXPENDED; AND METHOD THAT THESE PLANS AND PROCEDURES ARE MADE**  
107 **AVAILABLE TO THE PUBLIC.**

108 **ARTICLE X-3. FOREST RETENTION BANKS**

109 **SECTION 10.1.3 ESTABLISHING FOREST RETENTION BANK**

110 **10.1.3 Forest Mitigation Banks**

- 111 **A. A PERSON MAY ESTABLISH A FOREST RETENTION BANK FROM WHICH**  
112 **APPLICANTS MAY PURCHASE CREDITS TO MEET THE FOREST RETENTION**  
113 **REQUIRMENTS OF THIS ORDINANCE.**
- 114 **B. TO ESTABLISH A FOREST RETENTION BANK, A PERSON SHALL:**
- 115 **1) HAVE REVIEWED AND APPROVED A STANDARD FOREST STAND**  
116 **DELINEATION AS OUTLINES IN ARTICLE V OF THESE REGULATIONS.**
  - 117 **2) HAVE BOUNDARY LINE SURVEY COMPLETED BY A MARYLAND**  
118 **LICENSED SURVEYOR IN ORDER TO ESTABLISH AN ACCURATE**  
119 **AMOUNT OF ACRES AVAILABLE FOR BANKING PURPOSES.**
  - 120 **3) DEED RESTRICTIONS, TO ENSURE THE LONG-TERM PROTECTION OF**

121 FORESTED AREAS TO BE PLACED IN THE FOREST BANK, MUST BE  
122 RECORDED PRIOR TO THE SALE OF ANY CREDITS FROM THE BANK.

123 SECTION 10.1.4. USING A FOREST RETENTION BANK

124 A. THE USE OF A FOREST RETENTION BANK SHALL ONLY BE CONSIDERED IF  
125 THE APPLICANT DEMONSTRATES, TO THE SATISFACTION OF THE DIVISION OF  
126 PLANNING AND ZONING, THAT THE REQUIREMENTS FOR ONSITE  
127 RETENTION CANNOT BE REASONABLY ACCOMPLISHED.

128 B. TO USE THE CREDITS WITHIN A FOREST RETENTION BANK, A PERSON SHALL:

- 129 1) PREPARE A FOREST CONSERVATION PLAN FOR THE AREA CREDITS  
130 ARE TO BE USED AS OUTLINED IN ARTICLE VI OF THESE  
131 REGULATIONS.
- 132 2) A NOTE MUST BE PLACED ON THE SUBDIVISION PLAT OR SITE PLAN  
133 FOR THE PROJECT, WHICH IS USING THE CREDITS FROM A FOREST  
134 RETENTION BANK REFERRING TO THE APPROVED FOREST  
135 CONSERVATION PLAN, USING THE FOREST RETENTION BANK.
- 136 3) A FOREST CONSERVATION BANK AGREEMENT MUST BE EXECUTED  
137 AND RECORDED BETWEEN THE OWNER OF THE BANK AND THE  
138 APPLICANT. A COPY OF THE RECORDED AGREEMENT SHALL BE  
139 PROVIDED TO THE DIVISION OF PLANNING AND ZONING, AS PROOF  
140 OF THE AGREEMENT.
- 141 4) A FOREST CONSERVATION PLAN UTILIZING THE BANK SHALL NOT BE  
142 APPROVED UNTIL THE AFOREMENTIONED ITEMS ARE ADDRESSED  
143 TO THE DIVISION'S SATISFACTION.

144 Article XX. Annual Report

145 Section 20.1. On or before March 1 of each year, the Department shall submit to the Department of  
146 Natural Resources a report on:

- 147 A. The number, location, and type of projects subject to the provisions of these  
148 regulations;
- 149 B. The amount and location of acres cleared, conserved, and planted in connection with a  
150 development project;

- 151 C. The amount of reforestation and afforestation fees and noncompliance penalties  
152 collected and expended; and
- 153 D. The costs of implement the Forest Conservation Program.
- 154 E. Location and size of all forest mitigation banks approved during the past year with a description of  
155 the priority areas afforested or reforested by the bank;
- 156 F. Number of acres debited from each forest mitigation bank since the last annual report; and
- 157 G. Forest mitigation banks inspected since the last annual report.
- 158 **H. THE NUMBER OF ACRES FOR WHICH FEES WERE COLLECTED, AND THE NUMBER OF ACRES**  
159 **REFORESTED, AFFORDESTED, OR CONSERVED USING THE FEES.**
- 160 **AND IT IS FURTHER ENACTED BY THE COUNTY COUNCIL OF CECIL COUNTY, MARYLAND,**  
161 that this Bill shall take effect 60 calendar days from the date that it becomes law.

CERTIFICATION

I, HEREBY CERTIFY that the above Bill was posted for the public on the public bulletin board with the date, time and location of the public hearing meeting, copies were made available for the public, a copy was distributed to the press, and copy was made available on the Cecil County website.

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BY Council Manager