

Baltimore City Supplement to the State Forest Conservation Manual

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BALTIMORE CITY SUPPLEMENT
TO THE
STATE FOREST CONSERVATION MANUAL

Overview

This manual supplements the provisions of the State Conservation Manual, including all tables, figures, and appendices, except as otherwise modified by Article 9A of this manual, and to the extent that said provisions are not inconsistent with the provisions of Article 9A or irrelevant to the City's Urban Forest Conservation Program. The most recent amendments to the State Manual and/or its appendices shall be considered the current regulations for Baltimore City with some modifications identified in this manual. This manual implements the provisions of Article 7 of the Baltimore City Code and Natural Resources Article, § 5-103 and 5-1612, Annotated Code of Maryland by providing for an Urban Forest Conservation program within the City of Baltimore, and by setting forth standards of performance as described in Natural Resources Article, §5-1603-§5-1609, Annotated Code of Maryland.

To obtain a copy of the current Maryland DNR State Forest Conservation Technical Manual call (410) 974-2486.

Application

As conditions in the City are different from those in the counties of Maryland, certain changes have been made so that the Forest Conservation Act can be applied under urban conditions. In Baltimore City, the act is triggered by any application for a subdivision on a lot of 5,000 square feet or greater or any application for sediment/erosion control permit on a single lot which disturbs 5,000 square feet or greater. The applicant must submit to the Department of Planning a Forest Stand Delineation (FSD), a Forest Conservation Plan (FCP) and use methods approved by the Department of Planning as provided in the State Forest Conservation Manual to protect retained forests and trees during construction. Deviations from the State manual have been noted in the supplement where possible. However, the Department of Planning shall make the final determinations as to whether any provisions of the State Forest conservation Manual is applicable to the City Program.

Note: Chapter headings on pages 3 through 5 refer to chapters in the State Forest Conservation Manual.

CHAPTER ONE: INTRODUCTION

Chapter 1 Introduction

-no changes

CHAPTER TWO: FOREST STAND DELINEATION

Chapter 2.0

-no changes

Chapter 2.1

Figure 2:1 - FSD Decision Matrix

The following text replaces the first three rows of cells in the figure under EXISTING FOREST CONDITIONS or PROPOSED LAND USE DEVELOPMENT CHARACTERISTICS:

EXISTING FOREST CONDITIONS or PROPOSED LAND USE DEVELOPMENT CHARACTERISTICS	FOREST STAND DELINEATION REQUIREMENTS
Application for subdivision, grading, or sediment control permits on areas less than 5,000 square feet, or subdivisions which do not require a development plan but are for the purpose of correcting lot lines only	EXEMPT – No delineation required.
Activities that clear less than 5,000 square feet of forest on a single lot	EXEMPT – No delineation required.
Application for subdivision, grading, or sediment control permits for areas equal to or greater than 5,000 square feet where NO FOREST EXISTS	SIMPLIFIED FOREST STAND DELINEATION – Preliminary Forest Conservation Plan may be submitted at the same time as the FSD. No sampling or narrative is required.

Addition to 2.2.1 Simplified Forest Stand Delineation Requirements

Submittal Requirements

If the site has no existing forest or specimen trees, then a Site Confirmation Letter may be submitted in lieu of a Forest Stand Delineation. The Site Confirmation Letter is a statement declaring that the site is devoid of regulated trees. A Forest Conservation Plan containing an afforestation element is still required. Landscaping may be sufficient to meet requirements in this situation.

Addition to 2.2.1, 2.2.2, and 2.2.3

Specimen Tree Survey

On lots where disturbance for development impacts trees 20” DBH or greater, a tree survey is required. Within the limits of disturbance and within fifty feet of the limit of disturbance, the location, condition, diameter at breast height and species of all existing trees equal to or greater than twenty inches in diameter at breast height shall be provided. The Department of Planning may require surveys for portions of larger sites if necessary.

CHAPTER THREE: FOREST CONSERVATION PLANS

Chapter 3.0 – 3.2.2

-no changes

Chapter 3.2.3

Addition to Conservation Easements:

Once a conservation easement has been established as part of an approved Forest Conservation Plan, Department of Planning or Planning Commission approval is required to modify the easement. The criteria, submission requirements, and review process for proposed modifications are established in Article 7 Section 44-7 of the Baltimore City Code.

Chapter 3.3.1 When and Where Is Planting Necessary

Addition to Afforestation:

The following may be credited as planting units to meet afforestation requirements. One planting unit (PU) provides 0.01 acre of afforestation credit. Trees sized larger than the minimum caliper may be accepted but will not be calculated as providing additional afforestation credit.

1 Planting Unit (PU) =

- 1 shade tree at 2.5” caliper
- 2 understory/ornamental trees at 1.25” caliper
- 2 evergreen trees at 6’ height or greater
- 10 shrubs (shrubs may only be credited for a maximum of 20% of the afforestation requirement)

Addition following Reforestation:

Specimen Tree Mitigation

Specimen trees are protected under the Forest Conservation Act. In Baltimore City, an administrative variance must be granted by the Director of Planning to remove any specimen tree that is subject to Forest Conservation.

A specimen tree is defined as any tree:

1. 20 inches DBH or greater, or
2. 75 percent or more of the DBH of the current State champion tree of that species as designated by the Department of Natural Resources.

Required mitigation is one caliper inch replacement for each caliper inch (dbh) removed for the first 60 caliper inches removed; then 1:2 for the next 40 caliper inches removed--so that one caliper replacement is made for every 2 caliper inches (dbh) removed; and 1:4 for any additional inches above 100" removed. This mitigation is in addition to Forest Conservation afforestation and reforestation requirements. Trees to be removed must be delineated on the Forest Conservation Plan and the mitigation calculations shown.

No mitigation is required for the removal of a tree if:

1. The tree is determined to be in poor condition by a certified arborist and approved by the Department of Planning/Office of Sustainability or Division of Forestry. Poor condition means that the tree has more than 25% crown die-back due to health problems, the roots are not sound or trunk is not sound, or it has a major infestation or pathological problem as determined by a certified arborist and approved by the Department of Planning/Office of Sustainability or Division of Forestry,
2. The species is considered invasive by the Maryland Department of Natural Resources, the Baltimore Department of Planning/Office of Sustainability or Division of Forestry,
3. The tree is infested or diseased to the extent that death is imminent, or the tree is a threat by contagion,
4. The tree interferes with existing utility services or easements, or
5. The tree is deemed a hazard by a certified arborist and approved by the Department of Planning/Office of Sustainability or Division of Forestry.

The exempting condition(s) must be documented in the FSD and existing conditions plan. If the tree presents an imminent danger, that condition should be documented, and the tree removed.

If the Director of Planning does not grant the variance, the applicant has the right to appeal to the Planning Commission. Appeals must be filed within thirty days of the denial of the variance.

Figure 3:18 - Reforestation and Afforestation Checklist

The following text replaces the text for Afforestation or Reforestation Methods:

Afforestation or Reforestation Methods

1. Selective clearing and supplemental planting to enhance existing forest on site
2. Forest creation using transplanted or nursery stock that is greater than 1-inch diameter breast height (see Site Stocking for density and spacing requirements)
3. On site landscaping or street trees if no forest is removed
4. Off-site reforestation or afforestation using transplanted or nursery stock that is greater than 1-inch diameter breast height
5. Payment into Forest Conservation Fund if all other remedies have been exhausted.

6. Whips, seedling stock, and natural regeneration are not accepted methods for afforestation or reforestation.

Addition to 3.3.2 Suggested Planting Specifications

Plant Stocking (page 3-43)

Stocking, as a minimum standard, shall meet the following density requirements:

- 100 - 2" caliper trees/ acre (20' x 20' spacing)
- 200 - 1" caliper trees/ acre (15' x 15' spacing)

In addition to 3.4.1 Elements Required in Maintenance Agreements:

Forest Conservation Maintenance and Management Agreements/
Short Term Protective Agreements

A. Maintenance Agreements

- (1) Application. A person required to conduct afforestation or reforestation by Article 7 of the Baltimore City Code and this manual shall include in the forest conservation plan a binding maintenance agreement for the length of 2 years, as specified in the Forest Conservation Manual.
- (2) Approval procedures and timing shall be consistent with the procedures provided in this manual and as provided in COMAR 08.19.04.04.
- (3) The maintenance agreement shall detail how the areas designated for afforestation or reforestation will be maintained to ensure protection and satisfactory establishment of forest and shall follow the standards provided in Chapter 3 of the State Forest Conservation Manual.
- (4) The person required to conduct the afforestation or reforestation, after this referred to as the "obligee," shall present evidence of a legal right to implement the proposed maintenance agreement on a selected site by providing:
 - (a) An executed deed conveying title to a selected site to the obligee;
 - (b) An executed conservation easement agreement;
 - (c) Written evidence of the landowner's consent to the use of a selected site;
 - (d) A fully executed option agreement, long-term lease agreement, or contract of sale for a selected site; or
 - (e) Other written evidence of a possessory or ownership interest in a selected site.
- (5) The Department of Planning shall be a signatory to the maintenance agreement or shall be the designated a third-party beneficiary of the agreement.
- (6) The Department of Planning may not release a bond or end monitoring without receipt of a legally binding deed, long-term lease, or conservation easement agreement on those lands where afforestation or reforestation will occur.
- (7) The maintenance agreement shall provide for access by the Department of Planning or its designee to the afforestation or reforestation site.

B. Bonding

- (1) Application

- (a) A person required to conduct landscaping, afforestation or reforestation by Article 7 of the Baltimore City Code shall include a bond or other financial security as an element of a forest conservation plan.
- (b) This section does not apply to agencies of any federal, state, county or municipal government.
- (2) Requirements. A financial security shall be furnished in the form of:
 - (a) A bond which shall be made payable to the Director of Finance for Baltimore City, or
 - (b) An irrevocable letter of credit which shall:
 - i. be equivalent to the required bond,
 - ii. be issued by a financial institution authorized to do business in Maryland,
 - iii. Expressly state that the total sum is guaranteed to be available and payable directly to the Director of Finance for Baltimore City on demand in the event of forfeiture, and
 - iv. Be in force until all mitigation for reforestation and afforestation and monitoring requirements have been fulfilled to the satisfaction of the Department of Planning or until all contributions have been made to the Forest Conservation Fund; or

C. Other security approved by the Department of Planning

- (1) The financial security shall:
 - (a) Ensure that the afforestation, reforestation and associated maintenance agreement are conducted and maintained in accordance with the approved forest conservation plan,
 - (b) Ensure that required contributions are made to the Forest Conservation Fund,
 - (c) Be in the amount equal to the estimated cost of afforestation and reforestation, or amount of the contribution due, as determined by the Department of Planning, and
 - (d) Be in a form and content approved by the Department of Planning.
- (2) The value of the financial security:
 - (a) Shall be based on the cost to perform all work required by the afforestation or reforestation plan if the work had to be performed by or contracted out by the Department of Planning or its assignees, or when appropriate, the amount due for a fund contribution,
 - (b) May be adjusted according to the actual cost of mitigation for afforestation and reforestation or, if the cost of future mitigation work changes, the Department of Planning shall notify the obligee of a proposed adjustment and provide an opportunity for an informal conference on the adjustment; and
 - (c) May be reduced if the obligee proves to the Department of Planning that the costs to complete the mitigation project have been reduced.
- (3) A surety bond or other alternative form of security may not be canceled by the surety, bank, or other issuing entity unless both of the following conditions are satisfied:
 - (a) The surety notifies the Department of Planning and the obligee of its intent to cancel the bond, in writing, by registered mail, not less than 90 days before cancellation; and
 - (b) At least 45 days before the cancellation date indicated in the notice, the obligee files a commitment from a surety, bank, or other issuing entity to provide a substitute security which will be effective on the cancellation date indicated in the notice.
- (4) After one growing season, the person required to file a bond or other financial security under this regulation may request reduction of the amount of the bond or other financial security by submitting a written request to the Department of Planning with a justification

- for reducing the bond or other financial security amount, including estimated or actual costs to ensure that the afforestation or reforestation requirements are met.
- (5) The Department of Planning shall determine whether a lesser amount is sufficient to cover the cost of afforestation or reforestation, taking into account the following:
 - (a) The number of acres;
 - (b) The proposed method of afforestation or reforestation;
 - (c) The cost of planting materials or replacement materials;
 - (d) The cost of maintenance of the afforestation or reforestation project,
 - (e) Other relevant factors
 - (6) If after two growing seasons or 1 year, whichever is greater, the plantings associated with the afforestation or reforestation meet or exceed the standards of the Forest Conservation Manual, the remaining amount of the cash bond, letter of credit, surety bond, or other security shall be returned or released.
 - (7) Bond release
 - (a) The bond shall be released on receipt of written notice from the Department of Planning stating that all afforestation or reforestation requirements have been met.
 - (b) The written notice shall be sent at the end of the required 2-year monitoring and management period, as provided in the maintenance agreement.
 - (c) If the Department of Planning fails to send written notice within 60 days after the end of the monitoring and management period, the bond shall be automatically released.
 - (8) Financial Security forfeiture
 - (a) The bond or other financial security may be subject to forfeiture if the obligee fails to comply with:
 - i. Revocation of the forest conservation plan
 - ii. An administrative order; or
 - iii. An element of the afforestation or reforestation plan.
 - (b) The Department of Planning shall notify the obligee, by certified mail, of the intention of the Department of Planning to initiate forfeiture proceedings.
 - (c) The obligee has 30 days from the receipt of the notice of forfeiture to show cause why the bond or other financial security may not be forfeited.
 - (d) If the obligee fails to show cause, the bond or other financial security shall be forfeited.

Long Term Protective Agreements

- A. An applicant under the program as provided in Article 7, Baltimore City Code, shall have in effect at all times a long-term protective agreement as provided for in Natural Resources Article, §5-1607, Annotated Code of Maryland, and this section to preserve and protect areas retained, afforested, or reforested.
- B. Approved Forest Management Plan
 - (1) Procedure for Approval
 - (a) An application for approval of a forest management plan shall include all information required in the Manual.
 - (b) The forest management plan shall be:
 - i. Legally binding from the date of approval;

- ii. Prepared by a licensed professional forester;
- iii. Submitted to the Department of Planning; and
- iv. May be amended periodically, as provided for in §B(2) of the regulation
- (c) The Department of Planning shall review the plan to ensure that it is complete and consistent with the City program.
- (d) The Department of Planning shall notify the applicant whether the forest management plan has been approved.
- (2) Procedure for Amendment of an Approved Forest Management Plan
 - (a) An approved forest management plan may be amended if there is a change in site conditions or landowner objectives.
 - (b) Amendments shall be prepared by a licensed professional.
 - (c) The amendment shall be submitted to the Department of Planning.
 - (d) The Department of Planning shall review the amendment to ensure that it is complete and consistent with the City's Forest Conservation Program.
 - (e) The Department of Planning shall notify the applicant as to whether the amendment has been approved.
 - (f) The applicant shall sign the amendment.

C. Forest Conservation and Management Agreement

An applicant may satisfy the requirement for long-term protection under Natural Resources

Article, §5-1607(e), Annotated Code of Maryland, by executing a Forest Conservation and Management Agreement, as provided in Tax Property Article, §8-211, Annotated Code of Maryland, and COMAR 08.07.03.

D. Other legally Binding Protective Agreements.

- (1) Other legally binding protective agreements include:
 - (a) Covenants running with the land;
 - (b) Deed restrictions;
 - (c) Conservation easements; and
 - (d) Land trusts.
- (2) Other legally binding agreements shall provide:
 - (a) Protection for land forested, afforested, or reforested under Natural Resources Article, §§5-1601-5-1612, Annotated Code of Maryland, and this subtitle; and
 - (b) Limitation on the uses of forest to those that are consistent with forest conservation.

- E. An applicant may include in a forest conservation plan another long-term protection measure if the applicant demonstrates to the satisfaction of the Planning Department that the measure will provide for the long-term protection of the areas retained, afforested, or reforested under Article 7 of the Baltimore City Code or this manual.

GLOSSARY OF TERMS

This section substitutes for the Glossary of Terms in the State Forest Conservation Technical Manual. Any terms not defined here shall have the same meaning as provided in the State Forest Conservation Technical Manual.

Afforestation – The a) establishment of a forest on an area on which forest cover has been absent for a long period of time; b) planting of open areas which are not presently in forest cover or c) establishment of a forest according to the afforestation or reforestation standards.

Approved Forest Management Plan – means a document approved by the Department of Planning.

Champion Tree of the State of Maryland – the largest tree of its species within the State of Maryland as determined by the Maryland Department of Natural Resources.

Forest Conservation and Management Agreement – an agreement as stated in the Tax-Property Article, Sec. 8-211, Annotated Code of Maryland.

Forest Conservation Plan - a plan attached to the site development plan containing a map drawn to scale which shows (1) areas required for forest conservation, (2) an afforestation plan showing planting areas on or off-site, (3) a construction timetable, and (4) management and protective agreements for the conservation areas.

Forest Conservation Program – a program developed under the Forest Conservation Act by any jurisdiction with planning and zoning authority that is consistent with the intent, requirements and standards of the Act, Natural Resources Article, 5-1601, et seq., Annotated Code of Maryland.

Forest Management Plan – a plan establishing best conservation and management practices for a landowner in assessment of the resource values of forested property.

Forested Slopes – an area meeting the definition of forest and growing on an area with a slope of 25% or more and covering an area of at least 4000 square feet.

Local Forest Conservation Program (Local Program) – the approved forest conservation program administered by the Baltimore City Department of Planning.

Net Tract Area - the total area of a site, including both forested and non-forested areas, to the nearest one-tenth acre, reduced by that area where forest clearing is restricted by another local ordinance or program, such as the Critical Area. The area found to be within the boundaries of the 100-year floodplain may not be deducted from the site area. In agricultural or resource areas,

net tract area must also be reduced by any portion of the tract remaining in agricultural production.

Regulated Activity – means any of the following activities: (1) Subdivision of a parcel when that parcel is 5,000 square feet or greater. (2) Grading of an area that disturbs 5,000 square feet or greater on a single lot. (3) Sediment control activities on an area that is 5,000 square feet or greater. Regulated activity does not include any of the activities that are exempt under Natural Resources Article, 5-1602 (Forest Conservation Act), Annotated Code of Maryland.

Retention Areas – areas designated on-site for preservation; to be referred to as Forest Conservation areas.

Specimen Tree – trees having a diameter measured at 4.5 feet above the ground of 20 inches or more or trees having 75% or more of the diameter of the current state champion tree of that species.

Steep Slopes – areas with slopes greater than 20 percent slope.