



Council of the Town of Leonardtown
Ordinance No. 170
Subject: Forest Conservation Ordinance

Date Introduced on First Reading: May 11, 2015
Town Commissioners Public Hearing: July 13, 2015
Date Adopted on Second Reading: July 13, 2015
Date Effective: August 3, 2015

AN ORDINANCE concerning

LEONARDTOWN FOREST CONSERVATION ORDINANCE

FOR the purpose of adopting updates and revisions to the **Forest Conservation Ordinance** for the Town of Leonardtown.

EXPLANATORY STATEMENT: An ordinance to repeal Chapter 80 of the Leonardtown Code, adopted 1-1-1993 by Ordinance #74 – Forest Conservation Ordinance, and to enact Ordinance #170 – Forest Conservation Ordinance. The provisions of this ordinance establish guidelines for the purpose of prohibiting certain development projects from cutting or clearing forest within the Town of Leonardtown unless a forest stand delineation and a forest conservation plan are in effect, and requiring the afforestation of sites presently without forest. In addition, this ordinance sets forth standards and procedures for submission and approval of plans for development; and establishes penalties for failure to comply with the provisions of this ordinance. In accordance with the requirements of the Annotated Code of Maryland Natural Resources Article, Title 5, Subtitle 16, and Code of Maryland Regulations Title 8, Subtitle 19. The Town Administrator, Town Planner or other designated official, herein referred to as the “Local Permitting Official” will have the authority and responsibility to implement this ordinance. Now, therefore,

SECTION I. BE IT ORDAINED BY THE TOWN COUNCIL OF LEONARDTOWN that the Ordinance #170 for the Town of Leonardtown presented herein and dated July 13, 2015, a copy of which is appended to this Ordinance, is hereby adopted as the Forest Conservation Ordinance for the Town.

SECTION II. AND BE IT FURTHER ORDAINED, that this Ordinance shall become effective twenty (20) days following approval by the Mayor or passage by the affirmative vote of four-fifths of the whole Council after veto by the Mayor.

FOREST CONSERVATION ORDINANCE NO. 170

80-1 PURPOSE

The Leonardtown Town Council has enacted this chapter for the purpose of prohibiting certain development projects from cutting or clearing forest within the Town of Leonardtown unless a forest stand delineation and a forest conservation plan are in effect, and requiring the afforestation of sites presently without forest. In accordance with the requirements of the Natural Resources Article of the Annotated Code of Maryland, §§ 5-1601 through 5-1612, the provisions of this chapter are enacted.

80-2 TERMS DEFINED

As used in this chapter, the following terms shall have the meanings indicated:

AFFORESTATION:

- A. Establishment of a forest on an area from 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 procedures set forth in the Forest Conservation Technical Manual.

AGRICULTURAL ACTIVITY - Farming activities, including plowing, tillage, cropping, installation of best management practices, seeding, cultivating and harvesting for production of food and fiber products (except commercial logging and timber harvesting operations), the grazing and raising of livestock, aquaculture, sod production, orchards, nursery and other products cultivated as part of a recognized commercial enterprise.

APPLICANT - A person who is applying for subdivision or project plan approval or a grading or sediment control permit, or who has received approval of a forest stand delineation or forest conservation plan.

APPROVED FOREST MANAGEMENT PLAN- A document:

- A. Approved by the Department of Natural Resources (DNR) forester assigned to the county in which the property is located; and
- B. Which operates as a protective agreement for forest conservation as described in the Natural Resources Article of the Annotated Code of Maryland, § 5-1607(e) and (f).

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

COMMERCIAL AND INDUSTRIAL USES - Manufacturing operations, office complexes, shopping centers and other similar uses and their associated storage areas, yards and parking areas, and corresponds to Highway Commercial, Commercial Office and General Commercial Zoning Districts.

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

CRITICAL HABITAT AREA - A critical habitat for an endangered species and its surrounding protection area. A "critical habitat area" shall:

- A. Be likely to contribute to the long-term survival of the species;
- B. Be likely to be occupied by the species for the foreseeable future; and
- C. Constitute habitat of the species which is considered critical under the Natural Resources Article of the Annotated Code of Maryland, §§ 4-2A-04 and 10-2A-06.

CRITICAL HABITAT FOR ENDANGERED SPECIES - A habitat occupied by an endangered species as determined or listed under the Natural Resources Article of the Annotated Code of Maryland, §§ 4-2A-04 and 10-2A-04.

DECLARATION OF INTENT:

- A. A signed and notarized statement by a landowner or the landowner's agent certifying that the activity on the landowner's property:
 - (1) Is for certain activities exempted under this chapter or the Natural Resources Article of the Annotated Code of Maryland, §§ 5-103 and 5-1601 through 5-1612.
 - (2) Does not circumvent the requirements of this chapter or the Natural Resources Article of the Annotated Code of Maryland, §§ 5-103 and 5-1601 through 5-1612.
 - (3) Does not conflict with the purposes of any other declaration of intent; and
- B. The document required under COMAR 08.19.01.05 or this chapter.

DEVELOPMENT PROJECT:

- A. The grading or construction activities occurring on a specific tract that is 40,000 square feet or greater.
- B. Includes redevelopment.

DEVELOPMENT PROJECT COMPLETION - For the purposes of afforestation, reforestation or payment into a fund:

- A. The release of the development bond, if required;
- B. Acceptance of the project's streets, utilities, and public services by the Planning Office; or
- C. Designation by the Planning Office or State that a:
 - (1) Development project has been completed; or
 - (2) Particular stage of a staged development project, including a planned unit development, has been completed.

FOREST:

- A. A biological community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater.
- B. Includes:
 - (1) Areas that have at least 100 live trees per acre with at least 50% of those trees having a two-inch or greater diameter at 4.5 feet above the ground and larger; and
 - (2) Areas that have been cut but not cleared.
- C. Does not include orchards.

FOREST CONSERVANCY DISTRICT BOARD - The forestry board created for each state forestry conservancy district under the Natural Resources Article of the Annotated Code of Maryland, §§ 5-601 through 5-610.

FOREST CONSERVATION - The retention of existing forest or the creation of new forest at the levels set by the state or the Planning Office.

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

FOREST CONSERVATION TECHNICAL MANUAL - The technical manual incorporated by reference, used to establish standards of performance required in preparing forest stand delineations and forest conservation plans.

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

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

FOREST MANAGEMENT PLAN - A plan establishing best conservation and management practices for a landowner in assessment of the resource values of forested property.

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

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

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

FOREST STAND DELINEATION - The methodology for evaluating the existing vegetation on a site proposed for development, as provided in the Forest Conservation Manual.

GROWING SEASON - The period of consecutive frost-free days as stated in the current soil survey for St. Mary's County published by the National Cooperative Soil Survey Program, 16 U.S.C. § 590(a) through (f).

HIGH DENSITY RESIDENTIAL AREAS – Areas zoned for densities greater than 1 dwelling unit per acre, including both existing and planned development and their associated infrastructure, such as roads, utilities, and water and sewer service. These include zoning categories R-SF, R-MF, and PUD-M within the Town limits.

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

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

LANDSCAPING PLAN - A plan:

- A. Drawn to scale, showing dimensions and details for reforesting an area at least 35 feet wide and covering 2,500 square feet or greater in size;
- B. Using native or indigenous plants, when appropriate; and
- C. Which is made part of an approved forest conservation plan.

LINEAR PROJECT – A project which:

- A. Is elongated with nearly parallel sides;
- B. Is used to transport a utility product or public service not otherwise contained in an application for subdivision, such as electricity, gas, water, sewer, communications, trains, and vehicles; and
- C. May traverse fee simple properties through defined boundaries, or established easement rights.

LOCAL AGENCY - All units in the executive, legislative and judicial branch of the municipal government, including the Department of Public Works.

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

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

MEDIUM DENSITY RESIDENTIAL AREAS - Areas zoned for densities greater than 1 dwelling unit per 5 acres and less than or equal to 1 dwelling unit per acre, including both existing and planned development and their associated infrastructure, such as roads, utilities, and water and sewer service.

MINOR DEVELOPMENT PROJECT - A project:

- A. On fewer than five acres of land containing not more than four lots per acre; or
- B. Substantively similar as defined by the Planning Office and approved by the state.

MIXED USE DEVELOPMENT – A single, relatively high density development project, usually commercial in nature, which includes two or more types of uses. These include zoning categories C-B, C-O, C-H, C-M and C-SC within the town limits.

NATURAL REGENERATION - The natural establishment of trees and other vegetation with at least 400 woody, free-to-grow seedlings per acre, which are capable of reaching a height of at least 20 feet at maturity.

NET TRACT AREA –

- A. Except in agriculture and resource areas, the total area of a site, including both forested and nonforested areas, to the nearest 1/10 acre, reduced by the area found to be within the boundaries of the one-hundred-year floodplain; and
- B. In agriculture and resource areas, the part of the total tract for which land use will be changed or will no longer be used for primarily agricultural activities, reduced by that area where forest clearing is restricted by another local ordinance or program; and
- C. For a linear project – the area of a right-of-way width, new access roads, and storage; or the limits of disturbance as shown on an application for sediment and erosion control approval or in a capital improvements program project description.

NONTIDAL WETLANDS

- A. An area that is:
 - (1) Inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and which under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation;" and
 - (2) Considered a nontidal wetland in accordance with the publication Federal Manual for Identifying and Delineating Jurisdictional Wetlands, published in 1989 and as may be amended and interpreted by the United States Environmental Protection Agency.
- B. Does not include tidal wetlands regulated under the Natural Resources Article, Title 9, of the Annotated Code of Maryland.

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

ON-SITE - Within the limits of the area encompassed by the tract, including any area classified as a one-hundred-year floodplain.

ONE-HUNDRED-YEAR FLOOD - A flood which has a one-percent chance of being equaled or exceeded in any given year. Except for Class III waters (natural trout streams), a body of water with a watershed less than 400 acres is excluded.

ONE-HUNDRED-YEAR FLOODPLAIN - An area along or adjacent to a stream or body of water, except tidal waters, that is capable of storing or conveying floodwaters during a one-hundred-year-frequency storm event, or a one-hundred-year flood.

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

PERSON - The federal government, the state, a county, municipal corporation or other political subdivision of the state, or any of their units, or an individual, receiver, trustee, guardian, executor, administrator, fiduciary or representative of any kind, or any partnership, firm, association, public or private corporation or any of their affiliates, or any other entity.

PLANNED UNIT DEVELOPMENT – A development comprised of a combination of land uses or varying intensities of the same land use in accordance with an integrated plan that provides flexibility in land use design, approved by the Town of Leonardtown, with at least 20 percent of the land permanently dedicated to open space, and corresponds to the PUD-5 Zoning District.

PLANNING OFFICE - The office of the Town of Leonardtown charged with implementing the local forest conservation program.

PRIORITY FUNDING AREA – An area designated as a priority funding area under §5-7b-02 of the State Finance and Procurement Article.

PROJECT PLAN - A construction, grading, or sediment control activity on an area of 40,000 square feet or greater, conducted by a local or State agency.

PUBLIC UTILITY:

- A. Any transmission line or electric generating station; or
- B. Any water, sewer, electric, gas, telephone, television cable service line, or similar.

REFORESTATION or REFORESTED

- A. The creation of a biological community dominated by trees and other woody plants containing at least 100 live trees per acre with at least 50% of those trees having the potential of attaining a two-inch or greater trunk diameter measured at 4.5 feet above the ground, within seven years; or
- B. The establishment of a forest according to procedures set forth in the Forest Conservation Technical Manual.
- C. Includes landscaping of areas under an approved landscaping plan establishing a forest at least 35 feet wide and covering 2,500 square feet or more of area.
- D. For a linear project involving overhead transmission lines reforestation may consist of a biological community dominated by trees and woody shrubs with no minimum height or diameter criteria.

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

- A. Subdivision;
- B. Grading;
- C. An activity that requires a sediment control permit; or
- D. Project plan of a local agency.

RESIDENTIAL AREA - Areas zoned for only residential use and which correspond to the R-SF Single-Family Residential and R-MF Multiple-Family Residential Zoning Districts.

RETENTION - The deliberate holding and protecting of existing trees, shrubs or plants on the site according to established standards as provided in the Forest Conservation Manual.

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

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

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

STREAM BUFFER - All lands lying within 50 feet, measured from the top of each normal bank of a perennial or intermittent stream.

STREAM RESTORATION PROJECT – An activity that:

- A. Is designed to stabilize stream banks or enhance stream function or habitat located within an existing stream, waterway or floodplain.
- B. Avoids and minimizes impacts to forests and provides for replanting on-site an equivalent number of trees to the number removed by the project.
- C. May be performed under a municipal separate storm sewer system permit, a watershed implementation plan growth offset or another plan administered by the State or local government to achieve or maintain water quality standards; and
- D. Is not performed to satisfy stormwater management, wetlands mitigation or any other regulatory requirement associated with proposed development activity.

SUBDIVISION - Any division of a unit of land into two or more lots or parcels for the purpose, whether immediate or future, of transfer of ownership, sale, lease or development.

TIMBER HARVESTING:

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

B. Does not include grubbing and clearing of root mass.

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

TRACT FOR A PLANNED UNIT DEVELOPMENT - The entire property subject to a planned unit development.

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

VARIANCE:

A. Relief from the Natural Resources Article of the Annotated Code of Maryland, §§ 5-1601 through 5-1612, or this chapter.

B. Does not mean a zoning variance.

WATERSHED - All land lying within an area described as a sub-basin in water quality regulations adopted by the Department of the Environment under COMAR 26.08.02.08.

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

80-3 APPLICABILITY

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

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

(2) A public utility not exempt under Subsection B(5) and (6) of this section.

(3) A unit of county or municipal government, including a public utility or public works project, making application for a subdivision, project plan, grading or sediment control approval on areas 40,000 square feet or greater.

B. This chapter does not apply to:

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

(2) Areas governed by the Chesapeake Bay Critical Area Protection Law, Natural Resources Article, §§ 8-1801 through 8-1817, of the Annotated Code of Maryland, including those areas into which Critical Area forest protection measures have been extended under Natural Resources Article §5-1602(c), Annotated Code of Maryland;

(3) Commercial logging and timber harvesting operations, including harvesting conducted subject to the forest conservation and management program under the Tax-Property Article, § 8-211, of the Annotated Code of Maryland, that are completed:

(a) Before July 1, 1991; or

(b) After July 1, 1991, on property which:

[1] Has not been the subject of application for a grading permit for development within five years after the logging or harvesting operation; and

[2] Is the subject of a declaration of intent as provided for in § 80-4 of this chapter, approved by the Planning Office.

(4) Agricultural activities not resulting in a change in land use category, including agricultural support buildings and other related structures built using accepted best management practices, except that a person engaging in an agricultural activity clearing 40,000 square feet or greater of forest within a one-year period may not receive an agricultural exemption unless the person files a declaration of intent as provided for in § 80-4 of this chapter, which includes:

(a) A statement that the landowner or landowner's agent will practice agriculture on that portion of the property for five years from the date of the declaration; and

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

(5) The cutting or clearing of public utility rights-of-way licensed under the Annotated Code of Maryland, Article 78, §§ 54A and 54B or § 54-I, or land for electric generating stations licensed under the Annotated Code of Maryland, Article 78, §§ 54A and 54B or § 54-I, if:

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

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

(6) Routine maintenance or emergency repairs of public utility rights-of-way licensed under Article 78, §§ 54A and 54B or § 54-I, of the Annotated Code of Maryland.

(7) Except for a public utility subject to Subsection B(6) of this section, routine maintenance or emergency repairs of a public utility right-of-way if:

(a) The right-of-way existed before the effective date of this chapter; or

(b) The right-of-way's initial construction was approved under this chapter.

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

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

(b) Does not result in the cutting, clearing or grading of a forest that is subject to the requirements of a previous forest conservation plan approved under this chapter; and

(c) Is the subject of a declaration of intent filed with the Planning Office, as provided for in § 80-4 of this chapter stating that the lot will not be the subject of a regulated activity within five years of the cutting, clearing or grading of forest.

(9) Strip or deep mining of coal regulated under the Natural Resources Article, Title 7, Subtitle 5 or 5A, of the Annotated Code of Maryland.

(10) Noncoal surface mining regulated under the Natural Resources Article, Title 7, Subtitle 6A, of the Annotated Code of Maryland.

(11) An activity required for the purpose of constructing a dwelling house intended for the use of the owner, or a child of the owner, if the activity:

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

(b) Is the subject of a declaration of intent filed with the Planning Office, as provided for in § 40-4 of this chapter, which states that transfer of ownership may result in a loss of exemption.

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

(13) A planned unit development that, by December 31, 1992, has:

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

(b) Obtained exploratory plan approval by the Planning Commission.

(14) A real estate transfer to provide a security, leasehold or other legal or equitable interest, including a transfer of title, of a portion of a lot or parcel, if:

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

(b) Both the grantor and grantee file a declaration of intent, as provided for in § 80-4 of this chapter.

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

(16) Maintenance or retrofitting of a stormwater management structure that may include clearing of vegetation or removal and trimming of trees, so long as the maintenance or retrofitting is within the original limits of disturbance for construction of the existing structure or within any maintenance easements for access to the structure.

(17) A stream restoration project, as defined in §80-2 of this ordinance, for which the applicant for a grading or sediment control permit has executed a binding maintenance agreement of at least 5 years with the affected property owner or owners.

80-4 DECLARATION OF INTENT

A. The purpose of the declaration of intent is to verify that the proposed activity is exempt under the Natural Resources Article, §§ 5-103 and 5-1601 through 5-1612, of the Annotated Code of Maryland, and this chapter.

B. A person seeking an exemption under § 80-3B(3), (4), (8) and (14) of this chapter shall file a declaration of intent with the Planning Office.

C. The declaration of intent is effective for 5 years.

D. The existence of a declaration of intent does not preclude an exempted activity on the property subject to a declaration of intent, if the activity:

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

(2) Complies with the applicable requirements for an exempted activity;

E. If a regulated activity on the area covered by the declaration of intent occurs within five years of the effective date of the declaration of intent:

(1) There shall be an immediate loss of exemption; or

(2) There may be a noncompliance action taken by the Planning Office, as appropriate, under this chapter.

F. An applicant may apply for a regulated activity on that area of the property not covered under the declaration of intent if the requirements of this chapter are satisfied.

G. The Planning Office may require a person failing to file a declaration of intent or found in noncompliance with a declaration of intent to:

(1) Meet the retention, afforestation and reforestation requirements established in §§ 80-3 through 80-17 of this chapter;

(2) Pay a noncompliance fee of \$0.30 per square foot of forest cut or cleared under the declaration of intent;

(3) Be subject to other enforcement actions appropriate under the Natural Resources Article, §§ 5-1601 through 5-1612, of the Annotated Code of Maryland, and this chapter; or

(4) File a declaration of intent with the Planning Office.

H. In its determination of appropriate enforcement action, the Department may consider whether failure to file a declaration of intent by a person required to file is a knowing violation of this chapter.

I. Commercial Logging and Timber Harvesting. The requirements for a declaration of intent may be satisfied by a forest management plan for the entire tract, prepared by a forester licensed in Maryland according to Business Occupations and Professions Article, Title 7, Annotated Code of Maryland, which outlines management practices needed to meet the stated objectives for a minimum of 5 years.

J. Agricultural Activities or Commercial Logging and Timber Harvesting. A declaration of intent may be part of an amended sediment and erosion control plan which ensures that the activity meets the conditions for an exemption as stated in Section 80-3 B(3) and (4) of this Chapter.

80-5 APPLICATION REQUIREMENTS

A. A person making application after the effective date of January 1, 1993, for subdivision or local agency project plan approval, a grading permit, or a sediment control permit, or a sediment control permit for an area of land 40,000 square feet or greater shall:

(1) Submit to the Planning Office a forest stand delineation and a forest conservation plan for the lot or parcel on which the development is located; and

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

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

80-6 FOREST STAND DELINEATION CRITERIA

A. A forest stand delineation shall be submitted at the initial stages of subdivision or project plan approval, before a grading permit application, or before a sediment control application is submitted for the tract being developed.

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

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

(1) A topographic map delineating intermittent and perennial streams, and slopes over 25%.

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

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

(4) Location of one-hundred-year floodplains.

(5) Information required by the Forest Conservation Technical Manual.

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

D. If approved by the Planning Office, a simplified delineation, a concept plan or plat, preliminary plat or plan, sediment control plan, or other appropriate document, verified by a site visit, if appropriate, may substitute for the forest stand delineation if:

- (1) No forest cover is disturbed during a construction activity; and
- (2) Designated to be under a long-term protective agreement.

E. The Planning Office shall consider a simplified forest stand delineation complete or other substitute plan as described above, complete if it includes:

- (1) All requirements under Subsection C(1), (2), (4) and (5) of this section.
- (2) A map showing existing forest cover as verified by field inspection.
- (3) Other information required by this chapter.

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

G. Time for submittal.

- (1) Within 30 calendar days after receipt of the forest stand delineation, the Planning Office shall notify the applicant whether the forest stand delineation is complete and correct.
- (2) If the Planning Office fails to notify the applicant within 30 days, the delineation shall be treated as complete and correct.
- (3) The Planning Office may require further information or provide for an additional 15 calendar days under extenuating circumstances and will notify the applicant in such case.

80-7 FOREST CONSERVATION PLAN DEVELOPMENT

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

B. If existing forest on the site subject to a forest conservation plan cannot be retained, the applicant shall demonstrate to the satisfaction of the Planning Office:

- (1) How techniques for forest retention have been exhausted.

(2) Why the priority forests and priority areas specified in the Natural Resources Article, § 5-1607(c), of the Annotated Code of Maryland, cannot be left in an undisturbed condition.

(a) If priority forests and priority areas cannot be left undisturbed, how the sequence for afforestation or reforestation will be followed in compliance with the Natural Resources Article § 5-1607, of the Annotated Code of Maryland.

(b) Where on the site in priority areas afforestation or reforestation will occur in compliance with the Natural Resources Article § 5-1607, of the Annotated Code of Maryland.

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

C. The applicant shall demonstrate to the satisfaction of the Planning Office that the requirements for afforestation or reforestation on-site or off-site cannot be reasonably accomplished if the applicant proposes to make a payment into the local forest conservation fund Or to purchase credits from a forest mitigation bank.

D. Nontidal wetlands. A regulated activity within the net tract area that occurs wholly or partly in areas regulated as nontidal wetlands under Environment Article, Title 9, Annotated Code of Maryland, is subject to both the nontidal wetlands regulatory requirements and the requirements of this law, subject to the following:

(1) Any area of forest in the net tract area, including forest in nontidal wetlands that is retained, shall be counted towards forest conservation requirements under this law;

(2) For the purpose of calculating reforestation mitigation under this chapter, a forested nontidal wetland permitted to be cut or cleared and required to be mitigated under COMAR 08.05.04 shall be shown on the forest conservation plan and subtracted on an acre-for-acre basis from the total amount of forest to be cut or cleared as part of a regulated activity.

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

(4) Forested nontidal wetland identification and delineation should be included at the earliest stage of planning to assist the applicant in avoidance and reduction of impacts to the nontidal wetlands and to avoid delay in the approval process.

80-8 PRELIMINARY FOREST CONSERVATION PLAN

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

B. A preliminary forest conservation plan shall:

- (1) Be submitted with the preliminary plan of subdivision or proposed project plan.
- (2) Include the approved forest stand delineation for the site.
- (3) Include a table that lists the proposed values of the following, in square feet:
 - (a) Net tract area.
 - (b) Area of forest conservation required.
 - (c) Area of forest conservation that the applicant proposes to provide, including both on-site and off-site areas.
- (4) Include a clear graphic indication of the forest conservation provided on the site drawn to scale, showing areas where retention of existing forest or afforestation or reforestation is proposed.
- (5) Include an explanation of how the provisions of § 80-7 of this chapter have been met.
- (6) In the case of afforestation or reforestation, include a proposed afforestation or reforestation plan.
- (7) Include a proposed construction timetable showing the sequence of forest conservation procedures.
- (8) Show the proposed limits of disturbance.
- (9) Show proposed stockpile areas.
- (10) Incorporate a proposed two-year maintenance agreement that shows how areas designated for afforestation or reforestation will be maintained to ensure protection and satisfactory establishment.
- (11) Information required in the Forest Conservation Technical Manual.
- (12) Other information the Planning Office determines is necessary to implement this chapter.

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

D. During the different stages of the review process, the preliminary forest conservation plan may be modified provided the Planning Office approves of the changes.

80-9 FINAL FOREST CONSERVATION PLAN

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

B. A final forest conservation plan shall:

(1) Be submitted with the following:

(a) A final subdivision plan;

(b) A final project plan;

(c) An application for a grading permit; or

(d) An application for a sediment control permit.

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

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

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

(a) Watering; and

(b) A reinforcement planting provision if survival rates fall below required standards, as provided in the Forest Conservation Technical Manual.

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

(a) Provides protection for areas of forest conservation, including areas of afforestation, reforestation and retention; and

(b) Limits uses in areas of forest conservation to those uses that are designated and consistent with forest conservation, including recreational activities and forest management practices that are used to preserve forest.

(6) Include the substantive elements required under § 80-8B(2) through (5), (7) through (9) and (11) of this chapter as finalized elements of the forest conservation plan.

(7) Include other information the Planning Office determines is necessary to implement this chapter.

C. Time for submittal.

(1) Within 45 calendar days after receipt of the final forest conservation plan, the Planning Office shall notify the applicant whether the forest conservation plan is complete and approved.

(2) If the Planning Office fails to notify the applicant within 45 calendar days, the plan shall be treated as complete and approved.

(3) The Planning Office may require further information or extend the deadline for an additional 15 calendar days under extenuating circumstances and will notify the applicant in such case.

(4) At the request of the applicant, the Planning Office may extend the deadline under extenuating circumstances.

D. The Planning Office's review of a final forest conservation plan shall be concurrent with the review of the final subdivision or project plan, grading permit application or sediment control application associated with the project.

E. The Planning Office may revoke an approved forest conservation plan if it finds that:

(1) A provision of the plan has been violated;

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

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

F. The Planning Office may issue a stop-work order against a person who violates a provision of this chapter or a regulation, order, approved forest conservation plan or maintenance agreement.

G. Before revoking approval of a forest conservation plan, the Planning Office shall notify the violator, in writing, and provide an opportunity for a hearing.

80-10 AFFORESTATION AND RETENTION REQUIREMENT

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

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

(1) A tract with less than 20% of its net tract area in forest cover shall be afforested up to at least 20% of the net tract area for the following land use categories:

(a) Agriculture and resource areas, and

(b) Medium density residential areas;

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

(a.) Institutional development areas,

(b.) High density residential areas,

(c.) Mixed use and planned unit development areas, and

(d.) Commercial and industrial use areas;

B. Comply with the following when cutting into forest cover that is currently below the afforestation percentages described in Subsection A of this chapter:

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

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

80-11 RETENTION OF SPECIFIC TYPES

The following trees, shrubs, plants and specific areas are considered priority for retention and protection and shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the Planning Office, that reasonable efforts have been made to protect them and the plan cannot be reasonably altered:

A. Trees, shrubs and plants located in sensitive areas, including the one-hundred-year floodplain, intermittent and perennial streams and their buffers, steep slopes, nontidal wetlands and critical habitats.

B. Contiguous forest that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site.

The following trees, shrubs, plants and specific areas are considered priority for retention and protection and shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the Planning Office, that the applicant qualifies for a variance in accordance with §80-18 of this article:

A. Trees, shrubs or plants determined to be rare, threatened or endangered under:

(1) The federal Endangered Species Act of 1973 in 16 U.S.C. §§ 1531--1544 and in 50 CFR Part 17.

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

(3) COMAR 08.03.08.

B. Trees that:

(1) Are part of a historic site.

(2) Are associated with an historic structure or have been designated by the state or the Department as a national, state or county champion tree.

C. Any tree having a diameter measured at 4.5 feet above the ground of:

(1) Thirty inches or more; or

(2) Seventy-five percent or more of the diameter, measured at 4.5 feet above the ground, of the current state champion tree of that species as designated by the Department of Natural Resources.

80-12 FOREST CONSERVATION THRESHOLD

A. A forest conservation threshold exists for all land use categories, as provided in Subsection B of this section. The forest conservation threshold means the percentage of the net tract area at which the reforestation requirement ratio changes from a ratio of 1/4 acre planted for each acre removed above the threshold, to a ratio of two acres planted for each acre of forest removed below the threshold.

B. After reasonable efforts to minimize the cutting or clearing of trees and other woody plants have been exhausted in the development of a subdivision or project plan, grading and sediment control activities and implementation of the forest conservation plan, the forest conservation plan shall provide for reforestation, purchase of credits from a forest mitigation bank, or payment into the forest conservation fund, according to the formula set forth in Subsections B and C of this section and consistent with § 80-7 of this chapter and the following forest conservation thresholds for the applicable land use category:

Use Category:	Threshold Percentage:
Institutional areas	20
Residential areas	15
Planned unit development areas	15
Commercial and industrial use areas	15

C. Calculations.

(1) For all existing forest cover measured to the nearest 1/10 acre cleared on the net tract area above the applicable forest conservation threshold, the area of forest removed shall be reforested at a ratio of 1/4 acre planted for each acre removed.

(2) Each acre of forest retained on the net tract area above the applicable forest conservation threshold shall be credited against the total number of acres required to be reforested under Subsection C(1). The calculation of the credit shall be according to the criteria provided in the Forest Conservation Technical Manual.

(3) For all existing forest cover measured to the nearest 1/10 acre cleared on the net tract area below the applicable forest conservation threshold, the area of forest removed shall be reforested at a ratio of two acres planted for each acre removed below the threshold.

80-13 SEQUENCE FOR AFFORESTATION AND REFORESTATION

A. After techniques for retaining existing forest on the site have been exhausted, the preferred sequence for afforestation and reforestation, as determined by the Planning Office, is as follows:

(1) Forest creation in accordance with a forest conservation plan using one or more of the following:

(a.) Transplanted or nursery stock that is greater than 1.5 inches' diameter measured at 4.5 feet above the ground.

(b.) Whip and seedling stock or

(c.) Natural regeneration where it can be adequately shown to meet the objective of the State Forest Conservation Technical Manual;

(2.) In Leonardtown, the use of:

(a.) Street trees as a permissible step in the priority sequence for afforestation or reforestation and with a mature canopy coverage may be granted full credit as a mitigation technique, and

(b.) Acquisition of an off-site protection easement on existing forested areas not currently protected in perpetuity as a mitigation technique, in which case the afforestation or reforestation credit may not exceed 50 percent of the area of forest cover protected;

(3.) When all other options, both on-site and off-site, have been exhausted, landscaping as a mitigation technique conducted under an approved landscaping plan that establishes a forest that is at least 35 feet wide and covering 2,500 square feet or more of area.

B. A sequence other than the one described in Subsection A of this chapter may be used for a specific project, if necessary, to achieve the objectives of the town land use plan, or town policies, or to take advantage of opportunities to consolidate forest conservation efforts.

C. The following are considered a priority for afforestation and reforestation to:

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

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

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

(a.) Any on-site priority areas for afforestation or reforestation have been planted in accordance with this subsection; and

(b.) The applicant has justified to the Planning Office's satisfaction that environmental benefits associated with off-site afforestation or reforestation exceed those derived from on-site planting.

D. In the cases cited in Subsection C of this chapter, the method shall be selected in accordance with Subsection F of this chapter and the location shall be selected in accordance with Subsection C of this chapter.

E. Off-site afforestation or reforestation may include the use of forest mitigation banks which have been so designated in advance by the Planning Office.

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

(1) Establish or enhance forest buffers adjacent to intermittent and perennial streams, and coastal bays and their buffers, to widths of at least 50 feet;

(2) Establish or increase existing forested corridors to connect existing forests within or adjacent to the site and, where practical, forested corridors should be a minimum of 300 feet in width to facilitate wildlife movement;

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

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

(5) Establish plantings to stabilize slopes of 25% or greater and slopes of 15% or greater with a soil K value greater than 0.35, including the slopes of ravines or other natural depressions;

(6) Establish buffers adjacent to areas of differing land use, when appropriate, or adjacent to highways or utility rights-of-way;

(7) Establish forest areas adjacent to existing forests to increase the overall area of contiguous forest cover, when appropriate; and

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

G. A person required to conduct afforestation or reforestation under this section shall accomplish it within one year or two growing seasons, whichever is a greater time period, following development project completion.

80-14 PAYMENT TO FOREST CONSERVATION FUND IN LIEU OF REFORESTATION

A. There is established a forest conservation fund in the St. Mary's County Forest Conservation Program.

B. If a person subject to this chapter demonstrates to the satisfaction of the Planning Office that requirements for reforestation or afforestation on-site or off-site cannot be reasonably accomplished, the person shall contribute money into the St. Mary's County Forest Conservation Fund:

(1) For a project inside a priority funding area, as defined in Natural Resources Article, §5-1610, Annotated Code of Maryland, at a rate of 30.5 cents per square foot of the area of required planting with the amount adjusted by the Town based on the previous year's inflation rate; and

(2) For a project outside a priority funding area, at a rate of 36.6 cents per square foot of the area of required planting.

C. Money contributed instead of afforestation or reforestation under this chapter shall be paid within 90 calendar days after development project completion.

D. The town shall forward payments to the St. Mary's County Forest Conservation Fund to be expended in accordance with the county regulations and requirements, or to the State Forest Conservation Fund, which shall determine when contribution is allowable under COMAR 08.19.02.01I. The Town reserves the right to establish its own fund as allowed under the State Forest Conservation Regulations.

80-15 FOREST MITIGATION BANKS

A. Use of Forest Mitigation Bank:

(1) If a person subject to this Chapter demonstrates to the satisfaction of the Planning Office that requirements for reforestation or afforestation onsite or offsite cannot be reasonably accomplished; the person may contribute credits from a forest mitigation bank. A credit is required for each tenth of an acre of an area of required planting.

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

B. Forest Mitigation Banks:

(1) A person may create a forest mitigation bank from which applicants may purchase credits to meet the afforestation and reforestation requirements of this Chapter.

(2) The forest mitigation bank shall:

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

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

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

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

(e) Cause trees to be planted which:

[1] Establish or enhance forested buffers adjacent to intermittent and perennial streams and coastal bays to widths of at least 50 feet;

[2] Establish or increase existing forested corridors, which where practical, should be a minimum of 300 feet in width to facilitate wildlife movement, to connect existing forests within or adjacent to the site;

[3] Establish or enhance forest buffers adjacent to critical habitats where appropriate;

[4] Establish or enhance forested areas in 100-year flood-plains;

[5] Stabilize slopes of 25 percent or greater;

[6] Stabilize slopes of 15 percent or greater with a soil K value greater than 0.35 including the slopes of ravines or other natural depressions;

[7] Establish buffers adjacent to areas of differing land use where appropriate, or adjacent to highways or utility rights-of-way; or

[8] Establish forest areas adjacent to existing forests to increase overall area of contiguous forest cover, when appropriate.

(3) A person proposing to create a forest mitigation bank shall submit to the Town of Leonardtown a:

(a) Completed application on a form approved by the Town which has been signed by an authorized individual in conformance with COMAR 08.19.04.021;

(b) Forest mitigation bank plan which contains a;

[1] Vicinity map of the proposed mitigation bank site;

[2] Simplified forest stand delineation which meets the criteria in COMAR 08.19.04.02;

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

[4] Proposed 2-year maintenance agreement that;

(i) Sets forth how the areas afforested or reforested will be maintained to ensure protection and satisfactory establishment,

(ii) Complies with COMAR 08.19.04.05C(4)(a), and

(iii) Includes watering and reinforcement planting provisions if survival falls below required standards;

(c) Copy of the deed to the property;

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

(e) Title report or other assurance that:

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

[2] There is legally sufficient access to the forest mitigation bank site which can be used by the Town and its assignees to inspect the forest mitigation bank; and

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

(4) The owner of an approved forest mitigation bank shall enter into an agreement with the Town which contains:

(a) The approved reforestation or afforestation plan;

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

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

80-16 RECOMMENDED TREE SPECIES LIST

A. Tree species used for afforestation or reforestation shall be native to the town, when appropriate, and selected from a list of approved species established by the Planning Office.

B. The Planning Office shall adopt a list of tree species from a DNR-approved list to be used for any required afforestation or reforestation and incorporate it into the Forest Conservation Technical Manual.

80-17 SURETY BOND

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

(1) Assure that the afforestation, reforestation and the associated maintenance agreement are conducted and maintained in accordance with the approved forest conservation plan.

(2) Be in an amount equal to the estimated cost, as determined by the Planning Office, of afforestation and reforestation.

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

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

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

- (1) The number of acres.
- (2) The proposed method of afforestation or reforestation.
- (3) The cost of planting materials or replacement materials.
- (4) The cost of maintenance of the afforestation or reforestation project.
- (5) Other relevant factors.

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

E. A local forest conservation program may incorporate the financial security set forth in Subsections A through D of this section or in COMAR 08.19.05.01B.

80-18 DEVICES FOR PROTECTION OF TREES FROM CONSTRUCTION ACTIVITY

A. The town shall adopt standards for the protection of trees from construction activity that are at least as effective as the standards provided in the Department of Natural Resources Forest Conservation Manual.

B. Before cutting, clearing, grading or construction begins on a site for which a forest conservation plan is required by this section, the applicant shall demonstrate to the satisfaction of the Planning Office that protective devices have been established.

80-19 VARIANCE PROCEDURE

A. A person may request a variance from this chapter or the requirements of the Natural Resources Article, §§ 5-1601 through 5-1612, of the Annotated Code of Maryland, if the person demonstrates that enforcement would result in unwarranted hardship to the person.

B. An applicant for a variance shall:

- (1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship.

(2) Describe how enforcement of these rules will deprive the applicant of rights commonly enjoyed by others in similar areas.

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

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

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

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

C. The Planning Office shall make findings that the applicant has met the requirements in Subsections A and B of this section before the Planning Office may grant a variance.

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

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

80-20 ENFORCEMENT; VIOLATIONS AND PENALTIES

A. Noncompliance fees.

(1) A person found to be in noncompliance with this chapter, regulations adopted under this chapter, the forest conservation plan or the associated two-year maintenance agreement shall be assessed by the town the penalty of \$0.30 per square foot of the area found to be in noncompliance with required forest conservation.

(2) Money collected under Subsection A(1) of this section shall be deposited in the forest conservation fund as required by § 80-14 of this chapter and may be used by the town for purposes related to implementing this chapter.

B. Violation - In addition to the provisions under Subsection A of this section, a person who violates a provision of this chapter or a regulation or order adopted or issued under this chapter is liable for a penalty not to exceed \$1,000, which may be recovered in a civil action brought by the town. Each day a violation continues is a separate violation.

C. The town may seek an injunction requiring the person to cease violation of this chapter and take corrective action to restore or reforest an area.

D. The town may adopt the enforcement provisions under COMAR 08.19.06.03.

80-21 ANNUAL REPORT

On or before March 1 of each year, the Planning Office shall submit to the Department of Natural Resources a report on:

A. The number, location and type of projects subject to the provisions of this chapter.

B. The amount and location of acres cleared, conserved and planted, including any areas located in the 100 year floodplain, in connection with a development project.

C. The amount of reforestation and afforestation fees and noncompliance penalties collected and expended.

D. The costs of implementing the Forest Conservation Program.

E. Location and size of all forest mitigation banks approved during the past year with a description of the priority areas afforested or reforested by the bank.

F. Number of acres debited from each forest mitigation bank since the last annual report; and

G. Forest mitigation banks inspected since the last annual report.

H. Number location, and types of violations and types of enforcement activities conducted; and

I. The size and location of all conserved and planted forest areas shall be submitted in an electronic geographic information system or computer aided design format if possible. If not possible, the location shall be given by Maryland State Plane Grid Coordinates and 8 digit subwatershed.

80-22 BIENNIAL REVIEW BY THE DEPARTMENT OF NATURAL RESOURCES

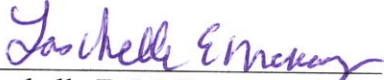
The Planning Office shall submit the necessary documentation to comply with COMAR 08.19.02.04.

80-23 WHEN EFFECTIVE; AMENDMENT

This chapter is hereby enacted and becomes effective August 3, 2015. This chapter may be amended as required. All amendments to this chapter are subject to the approval of the Department of Natural Resources.


ORDINANCE # 170

Attest:

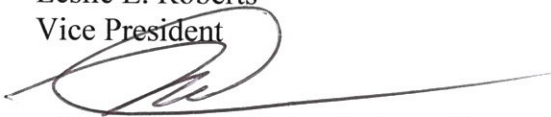


Laschelle E. McKay
Town Administrator

Commissioners of Leonardtown:



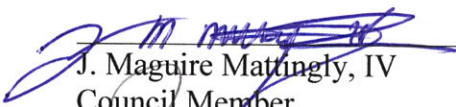
Leslie E. Roberts
Vice President




Thomas M. Combs
Council Member



Hayden T. Hammett
Council Member

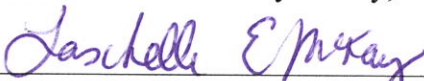


J. Maguire Mattingly, IV
Council Member



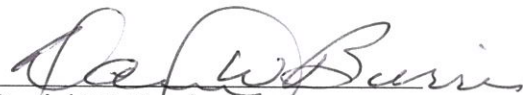
Roger L. Mattingly
Council Member

This ordinance was presented to the Mayor for his approval or disapproval pursuant to Section 210 of the Charter of the Town of Leonardtown this 13th day of July, 2015.



Laschelle E. McKay, Town Administrator

In accordance with Section 210 of the Charter of the Town of Leonardtown, I hereby approve this Ordinance the 13th day of July, 2015.



Daniel W. Burris, Mayor