



Forest Conservation Ordinance

Exhibit A

October 6, 1997

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City of Cambridge

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ARTICLE 1: Purpose and General Provisions

1.1 Purpose: The City of Cambridge has determined that to meet the requirements of Natural Resources Article, §§5-1601-1612, Annotated Code of Maryland, the provisions of this Ordinance must be enacted.

ARTICLE 2: Forest and Tree Conservation Definitions. For the purpose of this Article the following definitions apply:

2.1 "Afforestation" means:

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 Maryland Department of Natural Resources Forest Conservation Manual.

2.2 "Agricultural Activity" means: 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.

2.3 "Agricultural and Resource Areas" means: undeveloped areas zoned for densities of less than or equal to one dwelling unit per five (5) acres. There are no such corresponding zones within the City of Cambridge.

2.4 "Applicant" means: 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.

2.5 "Approved Forest Management Plan" means a document:

A. Approved by the Department of Natural Resources 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, §5-1607(e)-(f), Annotated Code of Maryland.

2.6 "Caliper" means the diameter measured at 2 inches above the root collar.

2.7 "Champion Tree" means the largest tree of its species within the United States, the State, County or Municipality.

2.8 "Champion Tree of the State" means a tree which appears in the State Forest Conservation Manual list of State Champion trees.

2.9 "Commercial and Industrial Uses" means manufacturing operations, office complexes, retail stores or shops, shopping centers, and other similar uses and their associated storage areas, yarding, and parking areas, and corresponds to the following Zoning Classifications in the City of Cambridge's Zoning Ordinances: C-1, C-2, C-3, I-1, I-2 and I-3.

2.10 "Commercial Logging or Timber Harvesting Operations" means the cutting and removing tree stems from a site for commercial purposes, leaving the root mass intact.

2.11 "Critical Habitat Area" means 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 Natural Resources Article, §§4-2A-06 or 10-2A-06, Annotated Code of Maryland.

2.12 "Critical Habitat for Endangered Species" means a habitat occupied by an endangered species as determined or listed under Natural Resources Article, §§ 4-2A-04 or 10-2A-04, Annotated Code of Maryland.

2.13 "Declaration of Intent" means:

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 Ordinance or Natural Resources Article, §§5-103 and 5-1601--5-1612, Annotated Code of Maryland;

(2) Does not circumvent the requirements of this Ordinance or Natural Resources Article, §§5-103 and 5-1601--5-1612, Annotated Code of Maryland; and

(3) Does not conflict with the purposes of any other declaration of intent;

or

B. The document required under this Ordinance.

2.14 "Department" means: the Department charged with implementing the local forest conservation program. In the City of Cambridge that shall be the Department of Public Works.

2.15 "Development Project" means: grading or construction activities or redevelopment occurring on a specific tract that is forty thousand (40,000) square feet or greater.

2.16 "Development Project Completion" means: for the purpose 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 Department; or
- C. Designation by the Department or State that:
 - (1) A Development Project has been completed; or
 - (2) A particular stage of a staged Development Project has been completed.

2.17 "Forest" means:

A. A biological community dominated by trees and other woody plants covering a land area of ten thousand (10,000) square feet or greater;

B. "Forest" includes:

(1) Areas that have at least one hundred (100) live trees per acre with at least fifty percent (50%) of those trees having a two (2) inch or greater diameter at four and one-half (4½) feet above the ground and larger; and

(2) Areas that have been cut but not cleared.

C. "Forest" does not include orchards.

2.18 "Forest Conservancy District Board" means: the forestry board created for each State forestry conservancy district under Natural Resources Article, §§5-601--5-610, Annotated Code of Maryland (the Dorchester Forest Conservancy District Board).

2.19 "Forest Conservation" means: the retention of existing forest or the creation of new forest at the levels set by this Ordinance pursuant to Natural Resource Article, §§5-1601--5-1612.

2.20 "Forest Conservation and Management Agreement" means an agreement as stated in the Tax-Property Article, §8-211, Annotated Code of Maryland.

2.21 "Forest Conservation Manual" means: the Department of Natural Resource Forest Conversation Technical Manual latest version incorporated by reference, used to establish standards of performance required in preparing forest stand delineations and forest conservation plans.

2.22 "Forest Conservation Plan" means: a plan prepared and approved pursuant to Natural Resources Article, §§5-1606 and 5-1607, Annotated Code of Maryland.

2.23 "Forest Cover" means: the area of a site meeting the definition of forest.

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

2.25 "Forest Stand Delineation" means: the methodology for evaluating the existing vegetation on a site proposed for development, as provided in the Forest Conservation Manual.

2.26 "Growing Season" means: the period of consecutive frost-free days as stated in the current soil survey for Dorchester County published by the National Cooperative Soil Survey Program, 16 U.S.C. §590 (a)--(f).

2.27 "High Density Residential Areas" means: areas zoned for densities greater than one (1) dwelling unit per acre, including both existing and planned development and their associated infrastructure, such as roads, utilities, and water and sewer service, and corresponds to the following Zoning Classifications in the Cambridge Zoning Ordinance: R-1, R-2, R-3 and R-4.

2.28 "Institutional Development Area" means: schools, colleges, and universities, military installations, transportation facilities, utility and sewer projects, government offices and facilities, golf courses, recreation areas, parks, and cemeteries and corresponds to any similar use listed as a Permissible Use within any zoning district of the City of Cambridge Zoning Ordinance.

2.29 "Intermittent Stream" means: a stream in which surface water is absent during a part of the year as shown on the most recent seven and one-half (7½) minute topographic quadrangle published by the United States Geologic Survey as confirmed by field verification.

2.30 "Landscaping Plan" means:

A. A Plan drawn to scale, showing dimensions and details for reforesting an area at least thirty-five (35) feet wide and covering two thousand five hundred (2,500) square feet or greater in size;

B. A Plan using native or indigenous plants when appropriate; and

C. A Plan which is made part of an approved forest conservation plan.

2.31 "Linear Project" means: 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.

2.32 "Local Agency" means: each unit in the executive, legislative or judicial branch of a county or municipal government, including an office or department of public works.

2.33 "Lot" means: 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 Natural Resources Article §5-1601, Annotated Code of Maryland and this Ordinance, without an approved Forest Stand Delineation and Forest Conservation Plan.

2.34 "Maintenance Agreement" means: the short-term management agreement associated with afforestation or reforestation plans required under Natural Resources Article, §5-1605, Annotated Code of Maryland and this Ordinance.

2.35 "Medium Density Residential Areas" means: areas zoned for densities greater than one (1) dwelling unit per five (5) acres and less than or equal to one (1) dwelling unit per acre, including both existing and planned development and their associated infrastructure, such as roads, utilities, and water and sewer service, and corresponds to the following Zoning Classification in the Cambridge Zoning Ordinance. There are no such corresponding zones within the City of Cambridge.

2.36 "Minor Development Project" means: a project on less than five (5) acres of land containing not more than four (4) lots per acre.

2.37 "Mixed Use Development" means: a single, relatively high density development project, usually commercial in nature, which includes two (2) or more types of uses corresponding to any similar use or uses listed as a Permissible Use within any zoning district of the City of Cambridge Zoning Ordinance.

2.38 "Natural Regeneration" means: the natural establishment of trees and other vegetation with at least four hundred (400) woody, free-to-grow seedlings per acre, which are capable of reaching a height of at least twenty (20) feet at maturity.

2.39 "Net Tract Area" means: The total area of a site, including both forested and nonforested areas, to the nearest one-tenth (1/10) acre, reduced by the area found to be within the boundaries of the Critical Area as defined in Section 20-20A of Article III.

2.40 "Net Tract for Linear Project" means:

A. the linear project area encompassed by:

- (1) the right-of-way width;
- (2) new access roads;
- (3) storage.

B. the linear project area within limits of disturbance as shown on an application for sediment and erosion control approval; or

C. the area described in an approved capital improvements program.

2.41 "Nontidal Wetlands" means:

A. An area that is:

(1) Inundated and saturated by surface or groundwater at a frequency and duration sufficient to support, and 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 known as the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands," published in 1989 and as may be amended and interpreted by the U.S. Environmental Protection Agency.

B. "Nontidal Wetlands" does not include tidal wetlands regulated under Natural Resources Article, Title 9, Annotated Code of Maryland.

2.42 "Offsite" means: outside of the limits of the area encompassed by the tract.

2.43 "Onsite" means: within the limits of the area encompassed by the tract, including an area classified as Critical Area as defined in Section 20-20A of Article III.

2.44 "Person" means: 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.

2.45 "Planned Unit Development" means: 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 City of Cambridge.

2.46 "Perennial Stream" means: a stream containing surface water throughout an average rainfall year, as shown on the most recent seven and one-half (7½) minute topographic quadrangle published by the United States Geologic Survey, as confirmed by field verification.

2.47 "Project Plan" means: a construction, grading, or sediment control activity of an area of forty thousand (40,000) square feet or greater by a local agency.

2.48 "Public Utility" means:

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

2.49 "Reforestation" means:

A. "Reforestation" or "reforested" means:

(1) The Creation of a biological community dominated by trees and other woody plants containing at least one hundred (100) live trees per acre with at least fifty percent (50%) of those trees having the potential of attaining a two (2) inch or greater diameter measured at four and one-half (4½) feet above the ground, within seven (7) years; or

(2) The establishment of a forest according to procedures set forth in the Forest Conservation Manual.

B. "Reforestation" or "Reforested" includes landscaping of areas under an approved landscaping plan establishing a forest at least thirty-five (35) feet wide and covering two thousand five hundred (2,500) square feet or more of area.

C. "Reforestation" or "Reforested" includes establishment of forest according to procedures set forth for linear projects in the State Forest Conservation Technical Manual.

2.50 "Regulated Activity" means: any of the following activities, when that activity occurs on a unit of land which is forty thousand (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.

2.51 "Retention" means: the deliberate holding and protecting of existing trees, shrubs, or plants on the site according to established standards as provided in the Maryland Department of Natural Resources' Forest Conservation Manual.

2.52 "Sediment Control Permit" means: the authorization of an activity regulated under a sediment control plan as provided in the Environment Article, Title 4, Annotated Code of Maryland.

2.53 "Seedlings" means: an unbranched woody plant, less than twenty-four (24) inches in height and having a diameter of less than one-half ($\frac{1}{2}$) inch measured at two (2) inches above the root collar.

2.54 "Selective Clearing" means: the careful and planned removal of trees, shrubs, and plants using specific standards and protection measures under an approved forest conservation plan.

2.55 "Sketch Plan Stage" means: the initial point in the development review process when the applicant prepares and submits a preliminary plan in accordance with the definitions and standards of the City of Cambridge's Zoning Ordinance or Subdivision Regulations.

2.56 "Stream Buffer" means: all lands lying within fifty (50) feet, measured from the top of each normal bank of a perennial or intermittent stream.

2.57 "Subdivision" means: any division of a unit of land into two (2) or more lots or parcels for the purpose, whether immediate or future, of transfer of ownership, sale, lease, or development.

2.58 "Timber Harvesting" means:

A. A tree cutting operation affecting one (1) or more acres of forest or developed woodland within a one (1) year interval that disturbs five thousand (5,000) square feet or more of forest floor.

B. Timber Harvesting does not include grubbing and clearing of root mass.

2.59 "Tract" means 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 Ordinance.

2.60 "Tract for a Planned Unit Development" means: the entire property subject to a Planned Unit Development.

2.61 "Tree" means: a large, branched woody plant having one (1) or several self supporting stems or trunks that reach a height of at least twenty (20) feet at maturity.

2.62 "Variance" means:

- A. Relief from this Ordinance.
- B. Variance does not mean a zoning variance.

2.63 "Watershed" means: all land lying within an area described as a subbasin in water quality regulations adopted by the Department of the Environment under COMAR 26.08.02.08.

2.61 "Whip" means: an unbranched woody plant greater than twenty-four (24) inches in height and having a diameter of less than 1 inch measured at two (2) inches above the Root Collar.

ARTICLE 3: Application

3.1 Except as provided in Section 3.2 of this Article, this Ordinance applies to:

- A. A person making application for a subdivision, project plan, grading, or sediment control approval on units of land forty thousand (40,000) square feet or greater after the effective date of this Ordinance.
- B. A public utility not exempt under Section 3.2E and F of this Article.
- C. 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.

3.2 This Ordinance does not apply to:

- A. Highway construction activities under Natural Resources Article, §5-103, Annotated Code of Maryland.
- B. Areas governed by the Chesapeake Bay Critical Area Protection Law, Natural Resources Article, §§8-1801--8-1916, Annotated Code of Maryland.
- C. Commercial logging and timber harvesting operations, including harvesting conducted subject to the forest conservation and management program under Tax-Property Article, §8-211, Annotated Code of Maryland, that are completed:

(1) On or after July 1, 1991 on property which:

(a) Has not been the subject of application for a grading permit for development within five (5) years after the logging or harvesting operation, and

(b) Is the subject of a declaration of intent as provided for in Section 3.3 of this Article, approved by the Department.

D. 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 forty thousand (40,000) square feet or greater of forest within a one (1) year period, may not receive an agricultural exemption, unless the person files a declaration of intent as provided for in Section 3.3 of this Article which includes:

(1) A statement that the landowner or landowner's agent will practice agriculture on that portion of the property for five (5) years from the date of the declaration; and

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

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

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

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

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

G. Except for a public utility subject to Section 3.2F of this Article, routine maintenance or emergency repairs of a public utility right-of-way if:

(1) The right-of-way existed before the effective date of this Ordinance;

or

(2) The right-of-way's initial construction was approved under this

Ordinance.

H. An activity conducted on an existing single lot of any size 40,000 square feet or greater, or a linear project not otherwise exempted under E, F or G, if the activity:

(1) Does not result in the cumulative cutting, clearing, or grading of more than forty thousand (40,000) square feet of forest;

(2) 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 Ordinance; and

(3) Is the subject of a declaration of intent filed with the Department, as provided for in Section 3.3 of this Article, stating that the lot will not be the subject of a regulated activity within five (5) years of the cutting, clearing, or grading of forest.

I. An activity required for the purpose of constructing a dwelling house intended for the use of the owner, or child or a grandchild of the owner, if the activity:

(1) Does not result in the cutting, clearing, or grading of more than forty thousand (40,000) square feet of forest; and

(2) Is the subject of a declaration of intent filed with the Department, as provided for in Section 3.3 of this Article, which states that transfer of ownership may result in a loss of exemption.

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

K. 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:

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

(2) Both the grantor and grantee file a declaration of intent, as provided for in Section 3.3 of this Article.

3.3 Declaration of Intent.

A. The purpose of the Declaration of Intent is to verify that the proposed activity is exempt under this Ordinance.

B. A person seeking an exemption under Section 3.2 C, D, H and K of this Article shall file a declaration of intent with the Department.

C. The declaration of intent is effective for five (5) years.

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

- and
- (1) Does not conflict with the purpose of any existing declaration of intent,
 - (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 (5) 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 Department, as appropriate, under this Ordinance.

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 Ordinance are satisfied.

G. The Department 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 Articles III--XIII of this Ordinance.
- (2) Pay a noncompliance fee of thirty cents (\$.30) per square foot of forest cuts or cleared under the declaration of intent;
- (3) Be subject to other enforcement actions appropriate under Natural Resources Article, §§5-1601--5-1612, Annotated Code of Maryland and this Ordinance; or
- (4) File a declaration of intent with the Department.

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 Ordinance.

ARTICLE IV: General Requirements

4.1 A person making application after the effective date of October 6, 1997, for subdivision or local agency project plan approval, a grading permit, or a sediment control permit for an area of land of forty thousand (40,000) square feet or greater shall:

A. Submit to the Department a forest stand delineation and a forest conservation plan for the lot or parcel on which the development is located; and

B. Use methods approved by the Department, as provided in the Forest Conservation Manual, to protect retained forests and trees during construction.

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

ARTICLE V: Forest Stand Delineation

5.1 Criteria.

A. A forest stand delineation shall be submitted as part of the preliminary plat stage of subdivision (as that term and process are defined in the City of Cambridge's Zoning Ordinance and Subdivision Regulations), or preliminary 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 as approved by the Department of Natural Resources.

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

(1) A topographic map, delineating intermittent and perennial streams, and steep slopes over twenty-five percent (25%);

(2) A soils map delineating soils with structural limitations, hydric soils, or soils with a K value greater than thirty-five one-hundredths (0.35) on slopes of fifteen percent (15%) or more;

(3) Forest stand maps indicating species, location and size of trees and showing dominant and codominant forest types;

(4) Location of one hundred (100) year floodplains as defined in Natural Resources Article, §5-1601, Annotated Code of Maryland; and

(5) Other requirements provided in the Forest Conservation Manual.

D. A simplified or intermediate forest stand delineation may be submitted for an application which meets the conditions and requirements for simplified or intermediate forest stand delineations as adopted in Chapter 2 of the State Forest Conservation Technical Manual, which is incorporated by reference in COMAR 08.19.01.02-1.

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

- (1) All requirements under §§B(1)(a), (b), and (d) of this regulation;
- (2) A map showing existing forest cover as verified by field inspection; and
- (3) Other information necessary for the Department to approve the application.

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

G. Time for Submittal.

(1) Within thirty (30) calendar days after receipt of forest stand delineation, the Department shall notify the applicant whether the forest stand delineation is complete and correct.

(2) If the Department fails to notify the applicant within thirty (30) days, the delineation shall be treated as complete and correct.

(3) The Department may require further information or provide for an additional fifteen (15) calendar days under extenuating circumstances.

ARTICLE VI: Forest Conservation Plan

6.1 General Provisions.

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 Department:

- (1) How techniques for forest retention have been exhausted;
- (2) Why the priority forests and priority areas specified in Article 7.2 cannot be left in an undisturbed condition;
- (3) If priority forests and priority areas cannot be left undisturbed, how the sequence for afforestation or reforestation will be followed in compliance with Article 9.1; and
- (4) Where on the site in priority areas afforestation or reforestation will occur in compliance with Article 9.1.

C. The applicant shall demonstrate to the satisfaction of the Department that the requirements for afforestation or reforestation onsite or offsite cannot be reasonably accomplished if the applicant proposes to make a payment into the local forest conservation account instead of afforestation or reforestation.

D. Nontidal Wetlands. A regulated activity within the net tract area that occurs wholly or partly in areas regulated as nontidal wetlands under Natural Resources Article, §8-1201--1211, Annotated Code of Maryland, and COMAR 08.05.04 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 of this subtitle.

(2) For the purpose of calculating reforestation mitigation under this Ordinance, a forested nontidal wetlands 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 wetlands 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.

6.2 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 approved by the Department of Natural Resources.

B. A preliminary forest conservation plan shall:

- project plan;
- feet:
- (1) Be submitted with the preliminary plan of subdivision or proposed
 - (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, and
 - (c) Area of forest conservation that the applicant proposed to provide, including both onsite and offsite 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 Section 6.1 of this Article 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 (2) 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 Manual; and
 - (12) Other information the Department determines is necessary to implement this Ordinance.

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

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

6.3 The 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 approved by the Department of Natural Resources.

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 (2) 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 Maryland Department of Natural Resources' Forest Conservation Manual;

(5) Long-Term Protective Agreements.

(a) An applicant under this Ordinance shall have in effect at all times after project approval, approved Long-Term Protective measures to retain as forest all land afforested, reforested or retained under this Ordinance. Limits uses in 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 forests. This may include one or more of the following:

- (i) Approved Forest Management Plan, prepared by a licensed professional forester and approved by the Department of Natural Resources.
 - A) Legally binding from the date of approval.
 - B) Submitted to the Department's Forester assigned to the County where the property is located.
 - C) May be amended periodically as provided for in Section 17.1 of this Ordinance.
 - D) Department of Natural Resources Forester shall review plan to insure that it is complete and consistent with local program.
 - E) Department of Natural Resources shall notice the Department of Public Works if the Forest Management Plan is approved.
 - F) Procedure for Amendment of an Approved Forest Management Plan.
 - i) An approved forest management plan may be amended if there is a change in site conditions or landowner objectives.
 - ii) Amendments shall be prepared by a licensed professional forester.
 - iii) The amendment shall be submitted to the Department's forester assigned to the county where the property is located.
 - iv) The forester shall review the amendment to ensure that it is complete and consistent with the State or local program.
 - v) The Department shall notify the applicant as to whether the amendment has been approved.
 - vi) The applicant shall sign the amendment.

(ii) Executing and maintaining the Forest Conservation and Management Agreement, as provided for in Tax Property Article; §8-211 Annotated Code of Maryland. This Agreement shall provide for notification of the approving authority on its termination by the property owner.

(iii) Other legally binding protective agreements, may include

- A) Covenants running with the land.
- B) Deed restrictions.
- C) Conservation easements.
- D) Land trusts.

(iv) Other legally binding agreements shall provide for the protection of all lands forested, afforested, or reforested under this Chapter and shall limit the uses to those that are designated and consistent with forest conservation, including recreational activities and forest management practices that are used to preserve forests.

(b) The terms and conditions of the Agreement shall be binding on the lot or parcel, and may not be terminated upon transfer of title.

(6) Include the substantive elements required under Section 6.2B(2)--(5), (7)--(9), and (11) of this Article, as finalized elements of the forest conservation plan; and

(7) Other information the Department determines is necessary to implement this Ordinance.

C. Time for submittal.

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

(2) If the Department fails to notify the applicant within forty-five (45) calendar days, the plan shall be treated as complete and approved.

(3) The Department may require further information or extend the deadline for an additional fifteen (15) calendar days under extenuating circumstances.

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

D. The Department'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 Department 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 Department may issue a stop work order against a person who violates a provision of this Ordinance or a regulation, order, approved forest conservation plan, or maintenance agreement.

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

ARTICLE VII: Afforestation and Retention.

7.1 Afforestation Requirement. A person making application after the effective date of this Ordinance for subdivision or project plan approval, a grading permit, or a sediment control permit for an area of land of forty thousand (40,000) square feet or greater, shall:

A. Conduct afforestation on the lot or parcel as follows: A tract with less than fifteen percent (15%) of its net tract area in forest cover shall be afforested up to at least fifteen percent (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 Section 7.1(A) of this Article:

(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 2 to 1 ratio 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.

7.2 Retention. 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 Department, 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 Critical Area, intermittent and perennial streams and their buffers, steep slopes, nontidal wetlands and their buffers (suggested), and critical habitats;

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

C. 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--10-2A-09, Annotated Code of Maryland; and

(3) COMAR 08.03.08;

D. Trees that:

(1) Are part of an historic site;

(2) Are associated with an historic structure, or

(3) Have been designated by the State or the Department as a national, State, or County champion tree.

E. Any tree having a diameter measured at four and one-half (4½) feet above the ground of:

(1) thirty (30) inches or more; or

(2) seventy-five percent (75%) or more of the diameter, measured at four and one-half (4½) feet above the ground, of the current State champion tree or that species as designated by the Department of Natural Resources.

ARTICLE VIII: Reforestation

8.1 Forest Conservation Threshold.

A. There is a forest conservation threshold established for all land use categories, as provided in Subsection B of this Article. The forest conservation threshold means the percentage of the net tract area at which the reforestation requirement changes from a ratio or one-fourth (¼) acre planted for each acre removed above the threshold to a ratio of two (2) acres planted for each acre 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, or payment into the forest conservation account, according to the formula set forth in Subsections B and C of this Article and consistent with Section 6.1 of this Article, and the following forest conservation thresholds for the applicable land use category.

Category of Use	Threshold Percentage
1. Institutional development areas	20 percent
2. High density residential areas	20 percent
3. Mixed use and planned unit development areas	15 percent
4. Commercial and industrial use areas	15 percent

C. Calculations.

(1) For all existing forest cover measured to the nearest one tenth (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 one fourth (¼) 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 paragraph (1) of this subsection. The calculation of the credit shall be according to the criteria provided in the Maryland Department of Natural Resources' Forest Conservation Manual.

(3) For all existing forest cover measured to the nearest one-tenth (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 (2) acres planted for each acre removed below the threshold.

ARTICLE IX: Priorities and Time Requirements for Afforestation and Reforestation

9.1 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 Department, is as follows:

- (1) Selective clearing and supplemental planting on site;
- (2) Onsite afforestation or reforestation, if economically feasible, using transplanted or nursery stock that is greater than one and one-half (1½) inches diameter measured at four and one-half (4½) feet above the ground;
- (3) Onsite afforestation or reforestation, using whip and seedling stock;
- (4) Landscaping of areas under an approved landscaping plan which establishes a forest that is at least thirty-five (35) feet wide and covering two thousand five hundred (2,500) square feet or more of area;
- (5) Offsite afforestation or reforestation, using transplanted or nursery stock that is greater than one and one-half (1½) inches diameter measured at four and one-half (4½) feet above the ground;
- (6) Offsite afforestation or reforestation, using whip and seedling stock;
- (7) Natural regeneration on site;
- (8) Natural regeneration offsite; and
- (9) The planting of street trees.

B. A sequence other than the one described in §§A of this Article may be used for a specific project, if necessary, to achieve the objectives of the City of Cambridge's

Comprehensive Development Plan or the City's land use policies, or to take advantage of opportunities to consolidate forest conservation efforts.

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

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

(2) Establish or enhance nonforested areas within the Critical Area, Section 20-20A, when appropriate;

(3) 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 three hundred (300) feet in width to facilitate wildlife movement;

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

(5) Establish plantings to stabilize slopes of twenty-five (25) percent or greater and slopes of fifteen (15) percent or greater with a soil K value greater than thirty-five hundredths (.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.

D. A person required to conduct afforestation or reforestation under this article shall accomplish it with one (1) year or two (2) growing seasons, whichever is a greater time period, following development project completion.

ARTICLE X: Payment Instead of Afforestation and Reforestation

10.1 Forest Conservation Account.

A. There is established a forest conservation account in the local program.

B. If a person subject to this Ordinance demonstrates to the satisfaction of the Department that requirements for reforestation or afforestation onsite or offsite cannot be reasonably

accomplished, the person shall contribute money, at a rate of ten (10) cents per square foot of the area of required planting, into the City of Cambridge's forest conservation account.

C. Money contributed instead of afforestation or reforestation under this article shall be paid prior to the issuance of any occupancy permit related to the project.

D. The City shall accomplish the reforestation or afforestation for which the money is deposited within one (1) year or two (2) growing seasons, whichever is a greater time period, after receipt of the money.

E. Money contributed under this article shall remain in the account for a period of one (1) year or two (2) growing season, whichever is a greater time period. At the end of that time, any part that has not been used to meet the afforestation or reforestation requirements shall be returned to the person who provided the money.

F. Money deposited in the City of Cambridge's forest conservation account:

(1) May be spent on the costs directly related to reforestation and afforestation, including site identification, acquisition, and preparation; and

(2) Shall be deposited in a separate forest conservation account and will not revert back to the General Fund.

G. Sites for Afforestation and Reforestation Using Fund Money.

(1) Except as provided in §§G(2) of this section, the reforestation or afforestation requirement under this article shall occur within the corporate limits of the City of Cambridge.

(2) If the reforestation or afforestation cannot be reasonably accomplished in the City, then the reforestation or afforestation shall occur in Dorchester County or the watershed (in the state) in which the project is located.

H. The City Clerk is authorized to establish a Forest Conservation Fund if it is determined by the City Clerk to be material.

ARTICLE XI: Recommended Tree Species

11.1 Recommended Tree Species List.

A. Tree species used for afforestation or reforestation shall be native to Maryland's Eastern Shore, when appropriate, and selected from a list of approved species established by the Department.

ARTICLE XII: Financial Security for Afforestation and Reforestation

12.1 Bonding.

A. A person required to conduct afforestation or reforestation under this article shall furnish financial security in the form of a bond, an irrevocable letter of credit, or other security approved by the Department. 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 Department, of afforestation and reforestation; and

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

B. After one (1) growing season, the person required to file a bond under §12.1A of this article may request reduction of the amount of the bond or other financial security by submitting a written request to the Department with a justification for reducing the bond or other financial security amount, including estimated or actual costs to ensure afforestation or reforestation requirements are met.

C. The Department 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,
and

(5) Other relevant factors.

D. If, after two (2) 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.

ARTICLE XIII: Standards for Protecting Trees from Construction Activities

13.1 Protection Devices.

A. The Department hereby adopts those standards for the protection of trees from construction activity that are provided in the Forest Conservation Manual.

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

ARTICLE XIV: Variances

14.1 Procedure.

A. A person may request a variance from this Ordinance in the same manner as provided for in Section 20.21 of this Chapter.

B. In addition, the applicant for a variance will:

(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 related to land or building use, either permitted or nonconforming, on a neighboring property, and

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

C. The Board of Zoning Appeals shall make findings that the applicant has met the conditions necessary to warrant a variance.

D. The Department shall provide copies of the application for a variance to the Department of Natural Resources within fifteen (15) days of receipt.

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

ARTICLE XV: Penalties

15.1 Enforcement.

A. Noncompliance Fees.

(1) A person found to be in noncompliance with this Ordinance, regulations adopted under this Ordinance, the forest conservation plan, or the associated 2-year maintenance agreement, shall be assessed by the Department the penalty of thirty (30) cents per square foot of the area found to be in noncompliance with required forest conservation.

(2) Money collected under §§A(1) of this article shall be deposited in the forest conservation account as required by Article X of this Ordinance, and may be used by the Department for purposes related to implementing this Ordinance.

B. Violation.

(1) In addition to the provisions under §§A of this article, a person who violates a provision of this Ordinance or a regulation or order adopted or issued under this Ordinance is liable for a penalty not to exceed One Thousand Dollars (\$1,000.00), which may be recovered in a civil action brought by the Department or be imprisoned for not more than thirty (30) days, or both.

(2) Each day a violation continues is a separate violation.

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

D. The City of Cambridge hereby adopts the enforcement provisions under COMAR 08.19.06.03, a copy of which may be found in Appendix 2 of this Ordinance.

ARTICLE XVI: Fees and Charges.

16.1 The City of Cambridge shall establish a Schedule of Fees, charges and expenses, and a collection procedure for the review and approval of the Forest Stand Delineation, Forest Conservation Plan and review of other plans or agreements as required by this Article. This fee will provide for the cost of plan review, administration and management of the plan approval process, and inspection and monitoring of all projects subject to this Article. Such schedule shall be posted in the

Department and may be altered or amended, from time to time, without a public hearing, only by the City of Cambridge upon the recommendation of the Planning Commission.

ARTICLE XVII: Effective Date and Subsequent Amendments

17.1 This Ordinance is hereby enacted and becomes effective October 6, 1997.

This Ordinance may be amended as required. All amendments to this Ordinance are subject to the approval of the Department of Natural Resources.