

## **TITLE 6. GENERAL DEVELOPMENT PROVISIONS**

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### Section

#### **Subtitle 1. In General**

- 17-6-101. Scope.
- 17-6-102. Shore erosion control measures.
- 17-6-103. Road design.
- 17-6-104. Transfer of density.
- 17-6-105. Wells.
- 17-6-106. FEMA map revisions and amendments.
- 17-6-107. Road frontage; road names; building numbers; addresses.
- 17-6-108. Mobile home park relocation plans.
- 17-6-109. Underground facilities.
- 17-6-110. Setbacks from certain roads.
- 17-6-111. Open space; recreation area; open area.
- 17-6-112. Mailboxes.

#### **Subtitle 2. Landscaping**

- 17-6-201. Landscape Manual.
- 17-6-202. Landscape plan.

#### **Subtitle 3. Forest Conservation**

- 17-6-301. Scope.
- 17-6-302. Forest stand delineation.
- 17-6-303. Forest conservation plan.
- 17-6-304. Afforestation and reforestation generally.
- 17-6-305. Afforestation.
- 17-6-306. Reforestation.
- 17-6-307. Agreements.
- 17-6-308. Forest Conservation Fund.
- 17-6-309. Violations.

#### **Subtitle 4. Natural Features**

- 17-6-401. Nontidal wetlands.
- 17-6-402. Streams.
- 17-6-403. Steep slopes.
- 17-6-404. Nontidal floodplains.
- 17-6-405. Preservation in the development process.

#### **Subtitle 5. Historic Resources, Archaeological Resources, and Cemeteries**

- 17-6-501. Historic resources.
- 17-6-502. Archaeological resources.
- 17-6-503. Cemeteries.
- 17-6-504. Scenic or historic roads.

#### **Subtitle 6. Parking and Stacking Capacity**

- 17-6-601. Reservation for use or structure.
- 17-6-602. Size of parking spaces.
- 17-6-603. Width of drive aisles.
- 17-6-604. Parking design.
- 17-6-605. Stacking capacity.
- 17-6-606. Commuter park and ride areas.

17-6-607. Parking in small business districts.

17-6-608. Parking lots for townhouses, or commercial, industrial, or private institutional uses.

### Subtitle 7. Agreements

17-6-701. Generally.

17-6-702. Security.

17-6-703. Release of security.

17-6-704. Forfeiture of security.

## SUBTITLE 1. IN GENERAL

### § 17-6-101. Scope.

This title relates to development approved in the subdivision process or through a site development plan.  
(Bill No. 3-05)

### § 17-6-102. Shore erosion control measures.

(a) **Preferred shore erosion control measures.** Vegetation shall be used as a shore erosion control measure unless it is demonstrated to be ineffective. In that event, an alternative measure shall be used in the following order of preference:

- (1) vegetation in combination with a stone sill, groin, breakwater, or similar wave dissipating structure;
- (2) the establishment or expansion of a beach by placing sand fill between the mean high-water line and mean low-water line;
- (3) riprap and materials similar to riprap that are composed of loose, permeable components; or
- (4) a bulkhead, groin, jetty, revetment, or seawall if the erosion rate is greater than two feet per year or when site constraints, such as water depth or topography, make other measures impractical.

(b) **Structures parallel to shoreline.** Shore erosion control structures built parallel to the shoreline may not extend beyond the natural shoreline at mean high water except to achieve a stable slope behind the structure.

(c) **Replacement of damaged bulkheads and seawalls.** Existing damaged bulkheads and seawalls may be replaced with a new structure within 18 inches of the old structure.

(Bill No. 3-05)

### § 17-6-103. Road design.

(a) **Subdivision roads generally.** To the maximum extent practicable, roads within a proposed subdivision shall be designed to minimize grading and impacts to natural features, and impacts to adjoining properties.

(b) **Road improvements for agricultural preservation subdivisions and certain cluster developments.** In an agricultural preservation subdivision, the road improvements required by the DPW Design Manual apply with respect to the road frontage of the owner's and the childrens' lots only. In a cluster development in an RA or RLD Zoning District, the road improvements required by the DPW Design Manual apply with respect to the road frontage of the cluster lots only.

(c) **Interconnections between subdivisions.** Roads other than alleys shall be designed to provide a connection between subdivisions of similar zoning and use unless the Office of Planning and Zoning determines that the interconnection will result in unnecessary impact to the environment or adjacent residentially zoned and developed properties.

(d) **Residential subdivisions.** Access to residential subdivisions through commercial and industrial development is allowed only if no other access is available.

(e) **Frontage on a collector or arterial road.** If a proposed subdivision has frontage on a collector or arterial road, the roads within the proposed subdivision shall be designed to minimize driveway access to the collector or arterial road.

(f) **Orientation of proposed units.** A proposed subdivision and road layout shall be designed to minimize orienting the rear facades of proposed units toward a public or private road other than an alley.

(g) **When further subdivision allowed.** If a proposed lot or bulk parcel within a subdivision may be further subdivided, a right-of-way of adequate width to accommodate the future development potential shall be provided for the lot or parcel.

(h) **Mixed use and high density residential developments.** Roads within a subdivision containing mixed use or high density residential developments shall be designed to accommodate mass transit service by providing sidewalks, crosswalks, stopping lanes, and bus waiting facilities at appropriate areas as determined by the Office of Planning and Zoning.

(i) **Public roads.** Public roads within a proposed subdivision shall be designed, to the maximum extent practicable, to minimize impervious surfaces, grading, and impacts to natural features.

- (1) The right-of-way for public roads shall be conveyed by dedicating and deeding the land to the County or State in fee simple.

If a proposed subdivision other than an agricultural preservation subdivision borders a County or State road that does not comply with County or State standards, the developer shall dedicate and deed sufficient right-of-way to comply with the standards and to accommodate pedestrian and bicycle facilities identified in the County Pedestrian and Bicycle Master Plan, except that in a cluster development in an RA or RLD District, the developer shall dedicate and deed in fee simple sufficient right-of-way to comply with the standards on the road frontage of the cluster lots only.

(2) Generally, roads within and serving commercial, industrial or multifamily residential development shall be privately owned and shall be served by privately owned stormwater management facilities.

(3) To the maximum extent practicable, roads in the R2, R1, RLD, and RA Zoning Districts shall be open section roads and roads in all other zoning districts shall be closed section roads with swales.

(4) The developer shall convey to the County a perpetual easement in the clear sight triangle of pre-existing road intersections and new rights of way.

(j) **Private roads; declaration.** Proposed new private roads shall be designed to accommodate areas for mail delivery and the collection of residents' garbage and recyclable materials. Generally these areas shall be in close proximity to public roads. The developer shall prepare and record a declaration of covenants, conditions, and restrictions requiring that, in the absence of a homeowners association or condominium regime legally responsible for maintenance of the private road, owners of newly created lots abutting a private road shall be responsible for the maintenance of the private road. For private roads developed in connection with a subdivision requiring the creation of a homeowners association, the declaration shall be binding on the homeowners association and the homeowners association shall be responsible for maintenance of the private road. For private roads developed in connection with a condominium regime, the declaration shall be binding on the condominium regime's council of unit owners and the council of unit owners shall be responsible for maintenance of the private road. For development in the absence of a homeowners association or condominium regime the declaration shall be binding on all abutting property owners and those abutting property owners shall be responsible for maintenance of the private roads. Any declaration required by this section shall be recorded in the land records.

(Bill No. 59-10)

#### **§ 17-6-104. Transfer of density.**

A developer may transfer density from a portion of a lot located in one zoning district to another portion of the same lot located in a more intense zoning district if the portion from which density is transferred is placed in a perpetual easement and designated for public use or held as open space by a homeowners' association.

(Bill No. 3-05)

#### **§ 17-6-105. Wells.**

Wells located on residential lots shall be located at least 50 feet from existing offsite agricultural land preservation easements and other farms that have a complete soil conservation and water quality plan approved by the Anne Arundel County Soil Conservation District.

(Bill No. 3-05)

#### **§ 17-6-106. FEMA map revisions and amendments.**

When a floodplain analysis establishes a floodplain limit that differs from the floodplain limit shown on the Federal Emergency Management Agency's (FEMA) Floodplain Insurance Rate Maps (FIRM) or proposed structures are shown in the FIRM floodplain but not in the floodplain limit established by the floodplain analysis, the developer shall apply for a revision or amendment to the affected FIRM and obtain a letter of acceptance from FEMA before recordation of the record plat or issuance of a building or grading permit.

(Bill No. 3-05; Bill No. 59-10)

#### **§ 17-6-107. Road frontage; road names; building numbers; addresses.**

(a) **Road frontage.** Subdivisions consisting of six or more residential lots for single-family detached dwellings and development consisting of six or more single-family detached dwellings shall provide frontage for each single-family detached dwelling on a public road. Subdivisions consisting of five or fewer residential lots for five or fewer single-family detached dwellings and development consisting of five or fewer single-family detached dwellings may provide frontage on a private road.

(b) **Road names and building numbers.** The Office of Planning and Zoning shall establish, maintain, and implement a system for the naming of roads and the numbering of dwellings and structures. The Office shall assign numbers to newly constructed dwellings and structures and names to new roads. The Office may change the addresses of existing dwellings and structures. The Office may change the names of existing roads, and may place or have placed at intersections or crossings signs indicating the names of roads.

### § 17-6-108. Mobile home park relocation plans.

(a) **Generally.** Any applicant changing the use of a mobile home park shall submit a mobile home park relocation plan for the park residents that meets the requirements of Title 8A of the Real Property Article of the State Code, shall comply with the plan as approved, and shall pay all fees established by this section. Final plan approval for subdivisions and final site development plan approval may not be granted until the applicant fully complies with the relocation plan.

(b) **Review and monitoring of plans.** The County may contract with Arundel Community Development Services, Inc. or a similarly qualified person or entity, to review, approve and monitor compliance with mobile home park relocation plans. A relocation plan, including any re-submittals, shall be reviewed and a written approval or denial issued no later than 45 days after the date of submittal. A denial shall include specific reasons for the denial.

(c) **Fees.** The mobile home park owner shall pay the fees due under § 17-11-101 for mobile home park relocation plan review and compliance monitoring as follows.

(1) All fees shall be paid at the time of application.

(2) The fee for compliance monitoring of a relocation plan shall be due for each mobile home occupied by a resident at the time of application for a change of land use.

(3) If the County enters into a contract in accordance with subsection (b), all fees due under this section shall be paid directly to the person or entity with whom the County contracts. Otherwise, all fees shall be paid to the County.

(4) An owner shall enter into an agreement with the County to provide security in the form of a letter of credit to secure the payment of any required relocation assistance not previously paid. An agreement to post security shall provide for the release of the security when all relocation assistance required to be paid pursuant to Title 8A of the Real Property Article of the State Code has been paid. An agreement and security posted under this subsection shall satisfy the requirement that the owner fully comply with the relocation plan prior to final plan approval, but does not relieve the owner of the obligation to pay the relocation assistance directly to qualified park residents or to provide confirmation satisfactory to the Office of Planning and Zoning that any relocation assistance required to be paid to residents has been fully paid prior to plat recordation or a recommendation to approve a site development plan.  
(Bill No. 20-14)

### § 17-6-109. Underground facilities.

A developer shall provide for underground facilities for utilities to serve a development in accordance with applicable law for underground facilities. The developer shall execute all required agreements relating to the underground facilities, including easements, and provide proof to the County that the agreements have been executed.

(Bill No. 53-06)

### § 17-6-110. Setbacks from certain roads.

(a) **Setbacks from certain roads.** Unless the Planning and Zoning Officer approves a reduced setback under subsection (b), residential development shall provide for a setback from the property line to the edge of the mainline pavement of certain roads, exclusive of ramps, as follows:

(1) 485 feet to I-97;

(2) 600 feet to I-695;

(3) 560 feet to US 50;

(4) 440 feet to MD 10;

(5) 455 feet to MD 100;

(6) 450 to MD 32; and

(7) 445 feet to the Baltimore-Washington Parkway.

(b) **Reduction of required setback; noise study.** A setback required under subsection (a) may be reduced if:

(1) the site plan is designed to place outdoor activity areas in rear yards that are shielded from highway noise by proposed dwelling units and dwelling units are clustered to minimize front yards or to contain parking areas; or

(2) the developer conducts a noise study using Federal Highway Administration prediction methods and the study reflects that the highway traffic sound level in outdoor activity areas is at or below 66 dBA or that noise mitigation measures will bring the highway traffic sound level to a level at or below 66 dBA in outdoor activity areas and 45 dba in indoor residentially occupied building spaces with highway traffic sound levels at the exterior building facades that exceed 66 dBA.

(c) **Noise mitigation measures.** Outdoor noise mitigation measures provided by the developer shall be noted on the proposed record plat and shall be located in open space maintained by a homeowners association, community association, or council of condominium unit owners. In the absence of open space, the developer shall provide a noise mitigation maintenance easement to be

recorded in the land records and noted on the proposed record plat. Required indoor noise mitigation measures shall be noted on the building architectural plans.

(Bill No. 59-10)

### § 17-6-111. Open space; recreation area; open area.

(a) **Scope.** This section does not apply to an agricultural preservation subdivision or to a subdivision located in an RA District.

(b) **Required open space generally.** Unless the Planning and Zoning Officer grants a modification to allow a reduction in the amount of required open space, a minimum of 30% of the gross area of a residential site, excluding the area of transmission line easements, shall be dedicated permanently as open space for the use of the residents in the subdivision. The recreation area requirements of subsection (c) and wetlands and their buffers shall be located in required open space.

(c) **Required recreation area generally.** Unless the Planning and Zoning Officer under subsection (g) requires the developer to pay a fee in lieu of recreation area, a single-family detached, townhouse, semi-detached, or duplex subdivision that provides open space under subsection (b) shall have at least 1,000 square feet of recreation area for each dwelling unit. A multifamily subdivision that provides open space under subsection (b) shall dedicate and use 20% of the gross area of the site as recreation area. At least 50% of the required recreation area shall be reserved for active recreation, such as tennis courts, swimming and boating areas, playgrounds, and playfields. The remainder of the recreation area may be passive recreation area and may be encumbered by forest conservation easements that permit minimal disturbance for trails, stormwater management areas, or environmentally sensitive areas.

(d) **Open area and required recreation area for certain multifamily dwellings.** A multifamily dwelling that has not provided an open space lot under subsection (b) shall have 45% of the gross area of the site as open area and 20% of the gross area of the site as recreation area. At least 50% of the required recreation area shall be reserved for active recreation, such as tennis courts, swimming and boating areas, playgrounds, and playfields.

(e) **Characteristics of recreation area generally.** Recreation area shall be designed to demonstrate ADA accessibility to the maximum extent practicable, and may not include parking lot islands, transmission line easements, or strips with a width of less than 20 feet.

(f) **Conveyance or dedication.** At the discretion of the County and to the full extent allowed by law, the County may require a developer to convey fee simple title of open space to the County without charge. Alternatively, if the property is adjacent to an existing State park and the State agrees to accept title, the County may require conveyance of open space to the State. If open space is not conveyed to the County or the State, a developer shall convey open space in fee simple to an incorporated homeowners association for the subdivision. Before recordation of the proposed record plat, the Office of Planning and Zoning and the Office of Law shall review and approve all documents deemed necessary to ensure that membership in the homeowners association is mandatory and automatic upon conveyance of title to any lot or unit in the subdivision and that the maintenance of open space owned by the homeowners association is guaranteed. The conveyance to the homeowners association shall be concurrent with the recording of the proposed record plat.

(g) **Fee in lieu.** The Planning and Zoning Officer may require a developer to pay a fee in lieu of establishment of recreation area if the Planning and Zoning Officer determines that land is not of significant quality or size for community purposes. The fees shall be used to provide public recreation areas and facilities in the County.

(h) **Characteristics of active recreation area.** Recreation area to be used for active recreation may not include wetlands or stream buffers, floodplains, forest conservation easements, stormwater management or drainage facility easements, inlets, outfalls, stormwater management credit areas, or slopes over five percent. Recreation area shall:

- (1) be integrated into the subdivision design to create focal points along roads and at entrances;
- (2) be square or rectangular in shape, to the extent practical, and suitable for recreation uses, such as tot lots, ball fields, and courts, or for recreation in formal parks and squares;
- (3) have at least 20 feet of frontage on a public or private road;
- (4) be centrally located among the lots it serves; and
- (5) be equitably distributed into two areas if the subdivision or site contains at least 50 residential lots or the site contains at least 50 residential units.

(i) **Characteristics of open space and open area.** Open space and open area shall contain the active and passive recreation areas, environmentally sensitive areas, and stormwater management areas identified in the preliminary plan and sketch plan. These areas shall be incorporated into the site design to maximize views and accessibility from proposed dwelling units and public spaces. To the maximum extent practicable, open space and open area shall be located so as to augment land on adjacent property that has previously been identified as open space, open area, conservation or preservation areas, or that has been identified by the Office of Planning and Zoning as possible future open space, conservation or preservation areas. The developer shall integrate open space and open area into the site design to maximize environmental protections while creating quality community and public spaces.

(Bill No. 59-10)

### § 17-6-112. Mailboxes.

The developer shall provide and identify sufficient area for the location and installation of mailboxes in conformance with requirements of the United States Postal Service.  
(Bill No. 59-10)

## SUBTITLE 2. LANDSCAPING

### § 17-6-201. Landscape Manual.

The Planning and Zoning Officer shall prepare regulations governing the landscaping, screening, and buffering of all development and the regulations shall be compiled in a document titled "Anne Arundel County Landscape Manual." The Landscape Manual shall be submitted for approval of the County Council by ordinance and may be changed only with the approval of the County Council by ordinance.  
(Bill No. 3-05)

### § 17-6-202. Landscape plan.

Whenever landscaping, screening, or buffering is required by the Landscape Manual, the developer shall submit to the Office of Planning and Zoning a landscape plan and cost estimate that complies with the requirements of the Landscape Manual. The plan shall be prepared by a registered landscape architect or other qualified professional and shall include all information required by the Office of Planning and Zoning. Landscaping approved by the Office of Planning and Zoning, including recreation amenities and hardscape features, shall be bonded as a line item in the grading permit bond.  
(Bill No. 3-05; Bill No. 59-10)

## SUBTITLE 3. FOREST CONSERVATION

### § 17-6-301. Scope.

(a) **In general.** This subtitle applies to any public or private subdivision plan or application for a grading or sediment control permit by any person, including a unit of State government and the County, on areas 40,000 square feet or greater.

(b) **Exceptions.** This subtitle does not apply to:

- (1) highway construction activity that is subject to the Natural Resources Article, § 5-103, of the State Code;
- (2) cutting or clearing of forest in areas governed by the critical area overlay contained in Article 18, Title 13 of this Code;
- (3) commercial logging and timber harvesting operations as provided in the Natural Resources Article, § 5-1602(b)(3), of the State Code;
- (4) any agricultural activity, as defined in the Natural Resources Article, § 5-1601, of the State Code, that does not result in a change in a land use category;
- (5) the cutting or clearing of public utility rights-of-way or land for electrical generating stations as provided in the Natural Resources Article, § 5-1602(b)(5), of the State Code;
- (6) routine maintenance of public utility rights-of-way;
- (7) residential construction on a single lot of any size or a linear project if:
  - (i) the residential construction or linear project does not result in the cutting, clearing, or grading of more than 20,000 square feet of forest; and
  - (ii) the residential construction or linear project will not result in the cutting, clearing, or grading of any forest that is subject to the requirements of a previous forest conservation plan prepared under this subtitle;
- (8) any strip or deep mining of coal regulated under the Environmental Article, Title 15, Subtitle 5 or 6, of the State Code, and any non-coal surface mining regulated under the Environmental Article, Title 15, Subtitle 8, of the State Code; or
- (9) the cutting or clearing of trees to comply with the requirements of 14 CFR 77.25 relating to objects affecting navigable airspace if the Federal Aviation Administration has determined that the trees are a hazard to aviation.

(c) **Declaration of intent.** A developer shall file a declaration of intent for the exceptions set forth in subsection (b)(3), (b)(4), and (b)(7); whenever a grading permit is required under Article 16, Title 2, of this Code; and to the extent required by State law.  
(Bill No. 3-05; Bill No. 77-05; Bill No. 59-10)

### § 17-6-302. Forest stand delineation.

(a) **Required.** A developer shall file with the Office of Planning and Zoning a forest stand delineation plan prepared by a licensed forester, licensed landscape architect, or other qualified professional who meets the requirements of COMAR, Title 08. The purpose of the plan is to determine the most suitable and practical areas for forest conservation.

(b) **Contents.** Except as otherwise provided in this section, a forest stand delineation shall consist of a narrative and shall contain or be accompanied by all information required by the Office of Planning and Zoning, including:

- (1) a topographic map delineating intermittent and perennial streams and steep slopes;
- (2) a soils map delineating soils with structural limitations, hydric soils, or highly erodible soils;
- (3) forest stand data indicating the species, location, and size of trees and showing dominant and co-dominant forest types;
- (4) the location of 100-year floodplains; and
- (5) information required by the State Forest Conservation Technical Manual.

(c) **Simplified forest stand delineation for other than linear projects.** The Office of Planning and Zoning may approve a simplified forest stand delineation for sites other than linear projects if:

(1) (i) less than 40,000 square feet of forest cover is disturbed during any construction activity; or  
(ii) forest cover disturbance is required by the County for the widening or improvement of existing County roads or utility extensions when, without the disturbance required by the County, the development itself would otherwise be exempt from the forest conservation provisions of this title;

(2) a forest conservation easement is entered into with the County to provide long-term protection for the area; and

(3) the application for approval of the simplified forest stand delineation contains all information required by the Office of Planning and Zoning, including at least the following:

(i) a topography map that delineates intermittent and perennial streams and steep slopes;

(ii) soil mapping units and narrative that indicate soils with structural limitations, hydric soils, or highly erodible soils;

(iii) the location of 100-year floodplains; and

(iv) a map verified by a field inspection that shows existing forest cover, champion trees, and critical habitat areas.

(d) **Simplified forest stand delineation for linear projects.** The Office of Planning and Zoning may approve a simplified forest stand delineation for a linear project if:

(1) disturbance to a forest area is less than 40 feet wide and the total forest disturbance is less than 120,000 square feet;

(2) the project area does not impact sensitive environmental features, such as floodplains, hydric soils, wetlands, perennial or intermittent streams, critical habitat, steep slopes, or highly erodible soils; and

(3) the applicant demonstrates that reasonable efforts have been made to utilize other routes.

(e) **Map requirements.** All maps required to be submitted under this section shall be at the same scale.

(f) **Effectiveness.** A forest stand delineation shall remain in effect for five years after approval. Thereafter, the Office of Planning and Zoning may approve the forest stand delineation for an additional five years based on the submission of such additional information as the Office may require.

(Bill No. 3-05; Bill No. 93-12)

### **§ 17-6-303. Forest conservation plan.**

(a) **Required.** Upon receipt of notice that a forest stand delineation is complete and correct, a developer shall file with the Office of Planning and Zoning a proposed forest conservation plan.

(b) **Priority retention areas.** The following vegetation and areas are considered priority retention areas and shall be left undisturbed unless the developer demonstrates that reasonable efforts have been made to protect the vegetation and areas but the plan cannot reasonably be altered:

(1) trees, shrubs, and plants located in sensitive areas, including the 100-year floodplain, intermittent and perennial streams and their buffers, steep slopes, non-tidal wetlands, and critical habitats;

(2) contiguous forest that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site;

(3) trees, shrubs, or plants determined to be rare, threatened, or endangered under the Federal Endangered Species Act of 1973 set forth in 16 U.S.C. §§ 1531 - 1544 and in 50 CFR Part 17; the Maryland Nongame and Endangered Species Conservation Act set forth in the Natural Resources Article, §§ 10-2A-01 et seq., of the State Code; and COMAR, Title 08;

(4) trees that are champion trees, part of a historic site, or associated with a historic structure;

(5) a tree that has a diameter measured at 4.5 feet above the ground of 30 inches or more or that is 75% or more of the diameter of the current State champion tree of that species; and

(6) forested areas at least 35 feet wide with a total area of 10,000 square feet.

(c) **Contents of forest conservation plan.** A forest conservation plan shall contain or be accompanied by all information required by the Office of Planning and Zoning, including at least the following:

(1) an approved forest stand delineation;

(2) a table that lists the proposed values, measured to the nearest one-tenth acre, of the site, excluding the 100-year floodplain, the area of required forest conservation, and the onsite and offsite areas of forest conservation that the developer will provide;

(3) a graphic scale drawing of the site that shows the forest conservation to be provided, areas where existing forest is to be retained, areas proposed for afforestation or reforestation and their relationship to priority areas, any offsite areas proposed for afforestation or reforestation to meet forest conservation requirements, the limits of disturbance to the site, and stockpile areas;

- (4) an explanation of how the developer will give priority to the retention of existing forests;
- (5) an afforestation or reforestation plan, if applicable;
- (6) information required by the State Forest Conservation Technical Manual;
- (7) a timetable for the sequence to implement the forest conservation plan and a description of site and soil preparation, size and species of plants and trees, and spacing between trees and plants;
- (8) the locations and types of protective devices to be used during construction activities to protect trees and forests designated for conservation;
- (9) a forestation agreement;
- (10) a forest conservation easement that provides protection for areas of retention, planting, replanting, afforestation, or reforestation and that limits the use of those areas to uses that are consistent with forest conservation, including passive recreational activities and forest management practices.

**(d) Retention not feasible; afforestation and reforestation; payment to Forest Conservation Fund.**

(1) If a developer proposes to retain less of the existing forest than is required by the forest conservation thresholds established in § 17-6-306, the developer shall apply for a modification of the forest conservation requirements of this subtitle and:

- (i) demonstrate that there are no available methods or techniques to implement forest retention at the forest conservation threshold;
- (ii) demonstrate why priority forests and priority areas, as determined by an evaluation of the forest stand delineation, cannot be retained; and
- (iii) describe the areas where afforestation and reforestation will occur, with preference given to replanting in a priority retention area.

(2) If the Office determines that retention of existing forest is not feasible, the developer shall provide for afforestation in accordance with § 17-6-305 and reforestation in accordance with § 17-6-306.

(3) If the Office of Planning and Zoning determines that neither afforestation nor reforestation can reasonably be accomplished, the developer shall make a payment to the County's Forest Conservation Fund before the signing of the proposed record plat for a development involving subdivision or upon the issuance of a grading permit for a development not involving subdivision.  
(Bill No. 3-05; Bill No. 59-10; Bill No. 93-12)

**§ 17-6-304. Afforestation and reforestation generally.**

(a) **Methods.** Unless a different method is necessary to achieve the objectives of County land use policies and this article or to take advantage of opportunities to consolidate forest conservation efforts, afforestation and reforestation shall be undertaken in accordance with one or more of the following methods in preferred sequence, as determined by the Office of Planning and Zoning, based on site conditions or forestry practices that will enhance wildlife or water quality values:

- (1) onsite afforestation or reforestation using transplanted or nursery stock that is at least 1.5 inches in diameter measured at 4.5 feet above the ground and shrubs;
- (2) onsite afforestation or reforestation using transplanted or nursery stock that is at least 1.5 inches in diameter measured at 4.5 feet above the ground;
- (3) onsite afforestation or reforestation using whip and seedling stock;
- (4) offsite afforestation or reforestation using transplanted or nursery stock that is at least 1.5 inches in diameter measured at 4.5 feet above the ground and shrubs;
- (5) offsite afforestation or reforestation using transplanted or nursery stock that is at least 1.5 inches in diameter measured at 4.5 feet above the ground;
- (6) offsite afforestation or reforestation using whip and seedling stock;
- (7) natural regeneration onsite; or
- (8) natural regeneration offsite.

(b) **Location.** All afforestation or reforestation shall occur in an area of the County that is at least 10,000 square feet and at least 35 feet wide. If practical, afforestation or reforestation shall occur in the watershed in which the development is located.

(c) **Native species.** Tree species used for afforestation or reforestation shall be native to the County and selected from a list of approved species established by the County Forester.

(d) **Credit for street trees, offsite area, easements.** For projects located in an area designated by the County pursuant to the Natural Resources Article, § 5-1607(b)(2), of the State Code, the Office of Planning and Zoning shall give credit towards afforestation or reforestation for:

- (1) street trees required by the Design Manual, based on the mature canopy coverage of the street trees; and
- (2) a transfer to the County of a fee simple or easement interest in an offsite existing developable forest that is not otherwise protected, with the credit not to exceed 50% of the area of forest cover protected.

(e) **Credit for certain landscaping.** The Office of Planning and Zoning shall give credit towards afforestation or reforestation for landscaped screening and buffer areas in accordance with an approved landscape plan prepared under §§ 17-6-201 et seq. if done in



an area that covers at least 2,500 square feet and is at least 35 feet wide.

(f) **Forest mitigation banks.** If reforestation or afforestation requirements cannot reasonably be accomplished onsite or offsite, the Office of Planning and Zoning may allow the use of credits from an approved forest mitigation bank. Forest mitigation banks shall be located as required by the Natural Resources Article, § 5-1610.1, of the State Code, and shall meet the requirements set forth at COMAR, 08.19.03.01, Articles X-1 and X-2 of the Model Forest Conservation Ordinance. A forest mitigation bank may not be used unless approved in advance by the Office of Planning and Zoning.

(Bill No. 3-05; Bill No. 77-05; Bill No. 59-10; Bill No. 93-12)

### § 17-6-305. Afforestation.

(a) **Amount required.** The amount of afforestation required under this subtitle shall be determined according to the amount of existing forest cover as provided in this section. For purposes of this section, the term "site" excludes the 100-year floodplain. The amount required is as follows:

(1) a site that has less than 20% existing forest cover shall be afforested up to at least 20% of the site for agricultural and resource areas and medium density residential uses; and

(2) a site that has less than 15% existing forest cover shall be afforested up to at least 15% of the site for institutional development uses, high density residential uses, mixed use or planned unit development uses, and commercial or industrial uses.

(b) **Clearing below afforestation level.** If existing forest cover is cut or cleared on a site that is below the afforestation levels set forth in this section, the site shall be reforested at a ratio of two acres planted for every acre cut or cleared, and this reforestation shall be in addition to the afforestation required by this section.

(c) **Exception for linear projects.** Afforestation is not required for the construction of linear projects where the utility crosses open, non-forested areas and the same use will continue on the site after the project is complete.

(Bill No. 3-05)

### § 17-6-306. Reforestation.

(a) **Amount required.** The amount of reforestation required under this subtitle shall be determined according to the amount of existing forest cover cleared in relation to the forest conservation threshold for the site. For purposes of this section, the term "site" excludes the 100-year floodplain. The forest conservation thresholds are:

(1) for agricultural and resource areas, 50% of the site;

(2) for medium density residential uses, 25% of the site;

(3) for institutional development uses, 20% of the site;

(4) for high density residential uses, 20% of the site;

(5) for mixed use or planned unit development uses, 15% of the site; and

(6) for commercial or industrial uses, 15% of the site.

(b) **Clearing above the threshold.** If existing forest cover is cut or cleared and the remaining forest cover is above the forest conservation threshold, the site shall be reforested at a ratio of one-fourth acre planted for each acre of forest cover cut or cleared except that each acre of the site remaining in forest cover above the forest conservation threshold shall be a credit against the amount of reforestation required.

(c) **Clearing below the threshold.** If existing forest cover is cut or cleared and remaining forest cover is below the forest conservation threshold, the site shall be reforested at a ratio of two acres planted for each acre of forest cover cut or cleared below the forest conservation threshold and one-fourth acre planted for each remaining acre of forest cover cut or cleared above the forest conservation threshold.

(Bill No. 3-05)

### § 17-6-307. Agreements.

(a) **Forestation agreements and forest conservation easements.** A developer shall execute a forestation agreement for planting, replanting, reforestation, or afforestation in areas of 1,000 square feet or more. A developer also shall execute a forest conservation easement, and the easement shall be located in areas that are at least 35 feet wide with a total area of at least 10,000 square feet. At the discretion of the Planning and Zoning Officer, the easement may be located on any open space lot or open area created under § 17-6-111, in a limited common element of a condominium regime, or in an agricultural preservation easement, but it may not otherwise be located on a residentially zoned lot of less than one acre. Forest conservation easements shall preserve existing forest and developed woodland.

(b) **Abandonment of forest conservation easements.** If a property owner believes that it is appropriate for the County to abandon a forest conservation easement, the owner shall file a request with the Office of Planning and Zoning that explains why the abandonment is believed to be appropriate. The County may abandon the easement if:

- (1) the Planning and Zoning Officer agrees that abandonment is appropriate;
  - (2) the easement or portion of the easement sought to be abandoned is no larger than one-half acre per lot and the cumulative area of all abandonments on the lot does not exceed one-half acre;
  - (3) the property owner pays into the Forest Conservation Fund the fee required by Title 11; and
  - (4) an amended record plat and other appropriate documentation, in a form acceptable to the County, are recorded among the land records.
- (Bill No. 3-05; Bill No. 77-05; Bill No. 59-10)

### **§ 17-6-308. Forest Conservation Fund.**

(a) **Time frame for spending.** Money paid into the County's Forest Conservation Fund shall remain in the Fund in accordance with Natural Resources Article, § 5-1610, of the State Code and applicable State regulations.

(b) **Use.**

(1) Money in the Forest Conservation Fund may only be spent on:

- (i) costs associated with reforestation or afforestation, including those costs directly related to site identification, acquisition, prepurchase, preparation of conservation property, maintenance of existing forests, and achieving urban canopy goals; and
- (ii) resource staff and equipment for project and plan review and approval that are directly related to the County forest conservation program in an annual amount not to exceed one-third of the Forest Conservation Fund.

(2) Money deposited in the Fund may not revert to any other local general fund.

(Bill No. 3-05; Bill No. 77-05; Bill No. 50-10)

### **§ 17-6-309. Violations.**

A person who clears in violation of this subtitle shall, at a minimum:

- (1) replant at two times the area cleared with trees and vegetative cover approved by the Office of Planning and Zoning; or
- (2) pay a fee into the Forest Conservation Fund as required by § 17-11-101.

(Bill No. 77-05)

## **SUBTITLE 4. NATURAL FEATURES**

### **§ 17-6-401. Nontidal wetlands.**

Development may not occur within a nontidal wetland or within a 25-foot buffer of a nontidal wetland, except that commercial harvesting of trees is permitted if sound silvicultural methods are used, the harvesting is undertaken in accordance with a forest management plan approved by the State, and the following requirements are met:

- (1) the harvesting utilizes forest harvest best management practices recognized by State forest programs;
- (2) mitigation is done onsite through revegetation methods contained within the approved plan; and
- (3) any clear cutting is approved as part of the approved plan.

(Bill No. 3-05)

### **§ 17-6-402. Streams.**

Development may not occur within a stream bed or within a 100-foot non-disturbance stream buffer.

(Bill No. 3-05; Bill No. 59-10)

### **§ 17-6-403. Steep slopes.**

Development may not occur within steep slopes or within 25 feet of the top of the steep slopes where the onsite and offsite contiguous area of the steep slopes is greater than 20,000 square feet unless development will facilitate stabilization of the slope or the disturbance is necessary to allow connection to a public utility.

(Bill No. 3-05; Bill No. 19-05)

### **§ 17-6-404. Nontidal floodplains.**

Development in a nontidal floodplain is regulated by Article 16, Title 2 of this Code. The nontidal floodplain shall be conveyed to the County in accordance with § 17-3-701.

(Bill No. 93-12)

## § 17-6-405. Preservation in the development process.

The layout and design of a development shall comply with environmental site design criteria and shall preserve natural features to the maximum extent practicable. Factors that the Office of Planning and Zoning shall consider include the size and shape of the lot; other applicable requirements of this Code, such as lot coverage, setbacks, and buffers; the nature of the natural features in relation to the amount of usable property; and the layout and design of neighboring properties and the extent to which the natural features of those properties have been preserved.

(Bill No. 3-05; Bill No. 59-10; Bill No. 93-12)

## SUBTITLE 5. HISTORIC RESOURCES, ARCHAEOLOGICAL RESOURCES, AND CEMETERIES

### § 17-6-501. Historic resources.

(a) **Evaluation of historic resources.** The developer shall identify all historic resources on property that is subject to an application for subdivision or an application for site development plan review associated with a building or grading permit, and the Planning and Zoning Officer shall evaluate and determine the extent to which each historic resource can be retained and preserved based on whether the historic resource retains its structural and historic integrity and can still convey historic significance.

(b) **Preservation.** When an historic resource is to be retained and preserved, the following criteria shall apply to the maximum extent practicable:

(1) access shall be by an existing driveway unless the Office of Planning and Zoning determines that relocation of the driveway results in an improved design;

(2) new development shall be sited so that the layout does not impact the historic resource and shall be oriented so that the view of the historic property's primary facade from the public road is not impaired;

(3) grading, filling, construction, and landscaping on a commonly owned adjacent lot shall be designed to enhance views to and from the historic resource and to buffer views of new development;

(4) the Office of Planning and Zoning may require architectural design covenants for new development within close visual proximity to the historic resource; and

(5) the developer shall grant to the County a preservation easement and shall execute an agreement, as necessary, to protect and preserve to the extent feasible historic resources on properties listed on the County Inventory of Historic Properties.

(c) **When preservation not feasible.** Demolition or removal of an historic resource listed on the County Inventory of Historic Properties is allowed only when the Planning and Zoning Officer finds that preservation is not feasible and the developer has complied with all other applicable State and federal laws and regulations regarding the historic resource.

(Bill No. 3-05; Bill No. 59-10)

### § 17-6-502. Archaeological resources.

(a) **Generally.** Development shall avoid disturbance of significant archaeological resources listed on the Maryland Inventory of Archaeological Resources. If the Office of Planning and Zoning determines that there is a known or high potential for the existence of an archaeological resource on a property, the developer shall have a "Phase I" preliminary or intensive archaeological survey conducted, as required by the Office of Planning and Zoning. If an archaeological site is found as a result of a "Phase I" investigation, the developer shall conduct a Phase II survey to determine the extent of the site and the level of its significance.

(b) **Significant resource.** If the Office of Planning and Zoning determines that an archaeological resource is significant, the developer shall:

(1) plan development to preserve or mitigate adverse impacts to the resource and execute and deliver to the Office of Planning and Zoning a preservation easement to protect it; or

(2) with approval from the Office of Planning and Zoning, impact the resource and conduct an approved data recovery investigation or "Phase III" study before commencing development.

(Bill No. 3-05; Bill No. 59-10)

### § 17-6-503. Cemeteries.

(a) **Cemetery identification.** The location and boundary of an onsite cemetery shall be determined by one of the following methods, in consultation with the Office of Planning and Zoning:

(1) a survey using professionally acceptable methods and techniques, including archival research, archaeology, geophysical survey methods, oral history, or other approved techniques;

(2) observations in the field including visible grave stones or markers, a pattern of depressions indicative of graves or associated fence boundaries; or

(3) reference to a modern map or plat or evidence found on historic maps or documents.

(b) **Preservation.** A developer shall preserve an onsite cemetery, as follows:

(1) grading, construction, or subsurface disturbance within 25 feet of the cemetery boundary is prohibited;

(2) appropriate measures shall be taken to protect the cemetery during construction, such as a field-delineated limit of disturbance zone, temporary fencing, or other appropriate physical markings;

(3) a 15-foot right-of-way from the nearest public or private road shall be required to maintain public or family access to the cemetery; and

(4) a preservation and maintenance easement shall be provided that designates a homeowner's association or other person or organization as the party responsible for care, maintenance, and protection of the site.

(Bill No. 3-05)

**§ 17-6-504. Scenic or historic roads.**

Development along a scenic or historic road shall preserve, maintain, and enhance the scenic or historic character of the landscape viewed from the road, and the achievement of maximum possible density is not a sufficient justification to allow impacts on a scenic or historic road. Development along a scenic or historic road shall occur in accordance with the following:

(1) structures and roads shall be designed to retain the open character of the site and to minimize the impact of the development on views from the road;

(2) structures and uses shall be located away from the road right-of-way unless sufficiently screened by topography or vegetation;

(3) development shall minimize tree and vegetation removal and protect existing vegetation adjacent to the road;

(4) the design shall minimize grading and retain existing slopes along the road frontage;

(5) development shall avoid having a rear facade oriented towards the road but, if that is unavoidable, the structure shall be set back as far as possible from the road;

(6) utilities, storm water management facilities, drainage structures, bridges, lighting, fences, and walls shall be located and designed to have the least impact, be unobtrusive, and harmonize with the surroundings and character of the road;

(7) the primary access or entrance to new development shall not be located on a scenic or historic road if any reasonable alternative access is available and, if unavailable, the primary access or entrance shall be located in an area that has the least impact to the scenic or historic qualities of the road;

(8) entrance features shall be low, open, and in keeping with the scenic or historic character of the surrounding area;

(9) road improvements required as a result of new development shall preserve, maintain, and enhance existing road alignments and be limited to those minimal improvements required for purposes of safety;

(10) there shall be a buffer of existing forest between the road and the proposed development that is sufficiently wide to preserve, maintain, or enhance the visual character of the road and, when there is inadequate existing forest to screen the development from the road, reforestation or landscaping shall be required to create a buffer;

(11) new structures shall be located to the extent practical behind natural screening or in or along the edges of forests, at the edges of fields and hedgerows, or near existing buildings;

(12) the development shall preserve the existing forest, tree canopy, foreground meadow, pasture, crop land, and other natural screening and shall be designed to place development in the background as viewed from the road;

(13) the scenic or historic character of each road shall guide the design of visible shoulders, curbs, and sidewalks; and

(14) the design shall include select materials for guardrails and bridges that are compatible with the surrounding character.

(Bill No. 3-05)

**SUBTITLE 6. PARKING AND STACKING CAPACITY**

**§ 17-6-601. Reservation for use or structure.**

All parking spaces shall be reserved for the particular uses or structures for which they are required.

(Bill No. 3-05)

**§ 17-6-602. Size of parking spaces.**

The size of a parking space shall be as follows:

Compact car parking space	8' by 14' (with 2' overhang) or 8' by 16'
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Non-compact car parking space	9' by 16'
Parallel parking space	7' by 20'
Loading space	12' by 30'
Residential lot parking space	9' by 18'
Handicapped parking space	12' by 18' (or as required by the current ADA criteria)

(Bill No. 3-05; Bill No. 77-05; Bill No. 59-10)

**§ 17-6-603. Width of drive aisles.**

Two-way drive aisles shall be 24' in width. One-way drive aisles shall be no less than 15' for angled parking and 20' for perpendicular parking.

(Bill No. 3-05)

**§ 17-6-604. Parking design.**

(a) **Public road right-of-way.** Parking spaces may not be located on or extend into a public road right-of-way, unless approved by the Planning and Zoning Officer through the modification process.

(b) **Direct access from interior driveway required; exceptions.** Except for a single-family residential use in an RA, RLD, R1, R2, or R5 District, all parking spaces shall have direct access from an interior driveway and may not necessitate backing into a road right-of-way.

(c) **Location.** Parking spaces shall be located within 600' of the use or structure for which they are required.

(d) **Compliance with stormwater management requirements and County Landscape Manual.** All parking lots shall be designed in full compliance with the stormwater management requirements of this Code and the County Landscape Manual.

(e) **Locations where on-street parking prohibited.** In locations where on-street parking is prohibited, one additional car parking space shall be provided for each lot or unit in addition to what is required by Article 18.

(Bill No. 3-05; Bill No. 59-10)

**§ 17-6-605. Stacking capacity.**

A use that provides a drive-through service or that tends to draw lines of traffic shall provide adequate onsite stacking capacity, as determined by the Office of Planning and Zoning.

(Bill No. 3-05)

**§ 17-6-606. Commuter park and ride areas.**

The Planning and Zoning Officer may authorize a commuter park and ride area in the design and layout of a parking area if the commuter park and ride area:

- (1) does not impair the availability of parking for a principal use of the property;
- (2) is located on a lot that contains at least 50 parking spaces; and
- (3) is limited to not more than 15% of the total number of parking spaces required for a principal use.

(Bill No. 3-05)

**§ 17-6-607. Parking in small business districts.**

Parking in a small business district shall generally be located in a rear or side yard to the extent practical or in an approved joint use parking area as authorized by the Office of Planning and Zoning. Up to 60% of required parking may be provided on a separate lot that is within 200 feet of the lot line and accessible along an established walkway. In small business districts and on residentially zoned sites, parking and paving surfaces for walkways and driveways shall be consistent with a residential character.

(Bill No. 3-05; Bill No. 59-10)

## § 17-6-608. Parking lots for townhouses, or commercial, industrial, or private institutional uses.

Parking lots serving townhouse dwelling units or commercial, industrial, or private institutional uses shall be privately owned and maintained.

(Bill No. 59-10)

## SUBTITLE 7. AGREEMENTS

### § 17-6-701. Generally.

(a) **Form and contents.** The form and contents of an agreement, deed, easement, or other document required by this article shall be acceptable to the County.

(b) **Right of entry.** An agreement required by this article may provide for a right of entry to allow County officials to enter upon property or into structures at reasonable times for purposes of inspection.

(c) **Inspection fees.** An agreement shall provide for inspection fees to the extent provided for in Title 11.

(d) **Fee reductions.** An agreement shall be executed with the County for all fee reductions approved by the Planning and Zoning Officer relating to this article.

(e) **Warranty.** A public works agreement shall include a warranty on the quality of the work performed that runs for a period of two years from the date of the County's acceptance of the public improvements. Any repair or restoration during the warranty period shall cause the warranty to run for one additional year beyond the original two-year period.

(Bill No. 3-05; Bill No. 93-12)

### § 17-6-702. Security.

(a) **Generally.** Except as provided in subsection (b), a public works agreement and forestation agreement shall be accompanied by security in the amount required by Title 11. The security shall be in the form of a cash deposit, certified check, cashier's check, irrevocable letter of credit, or bond from a bonding company or financial institution acceptable to the County. When security is required to be in the amount of the estimated cost of improvements, the developer shall provide to the Office of Planning and Zoning for its consideration and approval a cost estimate for completion of the improvements required by the agreement.

(b) **Exceptions.** A public works agreement for minor utility work, as determined by the County, or for a Mayo Tank System need not be accompanied by security.

(Bill No. 3-05; Bill No. 77-05)

### § 17-6-703. Release of security.

(a) **Full release.** Security may be released in full only upon full performance of all obligations secured by the agreement. The County shall retain the security for maintenance until the warranty provided for in the public works agreement expires. The County shall retain the security for a forestation agreement for two years to ensure that planting, replanting, afforestation, or reforestation is undertaken and maintained in accordance with the approved forest conservation, buffer management, or bog protection plan.

(b) **Partial release.** Upon the completion of all utility work under a public works agreement, the County may allow a partial release of security in the amount of the approved cost estimate for the utilities. With respect to the remainder of the improvements to be made under a public works agreement and a forestation agreement, the County may allow a partial release of security, not to exceed 50% of the total security required by an agreement, if the developer has performed at least 50% of the obligations or remaining obligations secured by the agreement and the County determines that a partial release of the security will not impair implementation of the agreement. The security for plantings in connection with a forest conservation plan, buffer management plan, or bog protection plan may not be released until the expiration of at least one growing season.

(Bill No. 3-05)

### § 17-6-704. Forfeiture of security.

(a) **Generally.** If a developer fails to comply with any term or condition of a public works agreement or forestation agreement, the security for the agreement shall be forfeited to the County. If the County's cost to complete the work is greater than the amount of the security, the excess cost shall constitute a lien on any properties of record owned by the developer.

(b) **Forestation agreements.** If a developer fails to request in writing a return of the security for a forestation agreement within 180 days after the expiration of the two-year period that the security is held under this subtitle, the security shall be forfeited by operation of law to the County's Forest Conservation Fund or to the Critical Area Fund described in § 17-8-603, as determined by the Office of Planning and Zoning.

