

Introduced	<u>10-4-2021</u>
Public Hearing	<u>10-18-2021</u>
Council Action	<u>12-6-2021</u>
Executive Action	<u>12-14-2021</u>
Effective Date	_____

County Council of Howard County, Maryland

2021 Legislative Session

Legislative Day No. 16

Bill No. 78 -2021

Introduced by Liz Walsh

AN ACT ~~adding new definitions to the Forest Conservation ordinance; establishing a "look-back" provision for the disturbance of certain trees; reducing the diameter threshold to 24 inches for forest retention; and generally relating to forest conservation in the County.~~

Introduced and read first time Oct 4, 2021. Ordered posted and hearing scheduled.
 By order Michelle R. Harrod
 Michelle R. Harrod, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on Oct 18, 2021.
 By order Michelle R. Harrod
 Michelle R. Harrod, Administrator

This Bill was read the third time on Dec 6, 2021 and Passed , Passed with amendments , Failed .

By order Michelle R. Harrod
 Michelle R. Harrod, Administrator

Scaled with the County Seal and presented to the County Executive for approval this 7 day of Dec, 2021 at 4⁰⁰ a.m./p.m.
 By order Michelle R. Harrod
 Michelle R. Harrod, Administrator

Approved by the County Executive Dec 14, 2021
Vetoed
Calvin Ball
 Calvin Ball, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; ~~Strike-out~~ indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **Section 1. Be It Enacted by the County Council of Howard County, Maryland, that the**
2 **Howard County Code is amended as follows:**

3 **By amending:**

4 **Title 16. Planning, Zoning, and Subdivisions and Land Development Regulations**

5 **Subtitle 12. Forest Conservation.**

6 **Section 16.1204. Forest conservation plan.**

7 **Section 16.1205. Forest retention priorities.**

8 **By adding and renumbering:**

9 **Title 16. Planning, Zoning, and Subdivisions and Land Development Regulations**

10 **Subtitle 12. Forest Conservation.**

11 **Section 16.1201. Definitions.**

12 **Item (n) Green Cultural Trail;**

13 **Item (bb) Specimen Tree; and**

14 **Item (dd) Targeted Ecological Area**

15 **Title 16. Planning, Zoning, and Subdivisions and Land Development Regulations.**

16 **Title 16. Planning, Zoning, and Subdivisions and Land Development Regulations.**

17 **Subtitle 12. Forest Conservation.**

18 **Section 16.1201. Definitions.**

19 Except as provided in subsection (ff) of this section, words and phrases used in this subtitle
20 have their usual meaning unless defined in the Subdivision and Land Development Regulations
21 as set forth in subtitle 1 of this title or as follows in this section:

22 ~~(N) GREEN CULTURAL TRAIL MEANS A NETWORK OF INTERCONNECTED TRAILS EXTENDING~~

23 ~~FROM THE PATAPSCO RIVER UP TO THE HEADWATERS OF SEVERAL CONVERGING~~

24 ~~TRIBUTARIES AS DESCRIBED IN THE ELICOTT CITY WATERSHED MASTER PLAN, DECEMBER~~
25 ~~2020, AS AMENDED.~~

26 ~~(BB) SPECIMEN TREE MEANS A TREE REQUIRED TO BE LEFT IN AN UNDISTURBED CONDITION~~
27 ~~PURSUANT TO SECTION 16.1205(A).~~

28 ~~(DD) TARGETED ECOLOGICAL AREAS MEANS LANDS AND WATERSHEDS OF HIGH ECOLOGICAL~~
29 ~~VALUE THAT HAVE BEEN IDENTIFIED AS CONSERVATION PRIORITIES AND MAPPED BY THE~~
30 ~~MARYLAND DEPARTMENT OF NATURAL RESOURCES, AS UPDATED.~~

1 **Sec. 16.1204. Forest conservation plan.**

2 (a) *Applicability.* Forest conservation plans, consistent with this subtitle and the manual, shall
3 be submitted to the Department with applications for all development not exempt under
4 section 16.1202 of this subtitle.

5 (b) *Professionally Prepared.* The forest conservation plan shall be prepared by a licensed
6 forester, licensed landscape architect, or certified arborist.

7 (c) *Forest Stand Delineation.* The forest conservation plan shall include a forest stand
8 delineation for the property to be subdivided, developed, or graded. An approved forest
9 stand delineation is valid for five years. The forest stand delineation shall:

10 (1) Describe the extent and quality of existing forests and other vegetation and its
11 relationship to environmentally sensitive areas on-site and to forest resources on
12 adjacent properties.

13 ~~(2) DESCRIBE THE EXTENT OF KNOWN OR PROBABLE CLEARING, CUTTING OR~~
14 ~~—DISTURBING OF TREES OR VEGETATION ON-SITE WITHIN THE LAST FIVE YEARS.~~

15 ~~[(2)](3)~~ Be used during the review process to determine the most suitable and practical
16 areas for forest conservation.

17 (d) *Forest Conservation Plan.* A forest conservation plan shall:

18 (1) State the net tract area, area of forest conservation required, and the area of forest
19 conservation proposed on-site and/or off-site;

20 (2) Show the proposed limits of disturbance;

21 (3) Show locations for proposed retention of existing forest and/or proposed
22 reforestation or afforestation. ~~IF A PROPERTY OWNER CLEARS, CUTS OR DISTURBS~~
23 ~~TREES OR VEGETATION ON-SITE WITHIN THE FIVE YEARS PRIOR TO ENTERING THE~~
24 ~~DEVELOPMENT OR SUBDIVISION PROCESS, THEN THOSE TREES AND VEGETATION~~
25 ~~SHALL BE DESCRIBED IN THE PLAN AND THE PROPERTY SUBJECT TO THESE~~
26 ~~REGULATIONS AS THOUGH STILL EXISTING ON-SITE;~~

27 (4) Justify the following, if existing forest cannot be retained:

28 (i) How techniques for forest retention have been exhausted;

29 (ii) Why the priority forests specified in section 16.1205 of this subtitle cannot be left
30 in an undisturbed condition;

- 1 (iii) If priority forests and priority areas cannot be left undisturbed, where on the site
2 in priority areas reforestation or afforestation will occur in compliance with
3 section 16.1208 of this subtitle;
- 4 (iv) How site design requirements will be followed to maximize meeting forest
5 conservation obligations on-site in compliance with section 16.1209 of this
6 subtitle;
- 7 (v) How the sequence for preferred reforestation or afforestation location and
8 methods will be followed in compliance with section 16.1208 of this subtitle; and
- 9 (vi) Why reforestation or afforestation requirements cannot reasonably be
10 accomplished on- or off-site, or through a forest mitigation bank, if the applicant
11 proposes payments of an in-lieu fee to the forest conservation fund;
- 12 (5) Show proposed locations and types of protective devices and measures to be used
13 during construction to protect trees and forests designated for conservation, including
14 protection of critical root zones;
- 15 (6) In the case of reforestation or afforestation, include a reforestation or afforestation
16 plan, with a timetable, description of needed site and soil preparation, and the species,
17 size, and spacing of plantings;
- 18 (7) Include a minimum three growing season forest conservation agreement as specified in
19 the manual that details how the areas designated for retention, reforestation or
20 afforestation will be maintained to ensure protection and satisfactory establishment,
21 including a reinforcement planting provision if survival rates fall below required
22 standards. Financial security shall be provided for the forest conservation agreement as
23 provided in section 16.1210 and the manual. Minor subdivisions which meet forest
24 conservation requirements entirely by forest retention are not required to have a forest
25 conservation agreement;
- 26 (8) Include a deed of forest conservation easement with a plat of the forest conservation
27 easement area, as specified in the manual that:
- 28 (i) Provides protection, in perpetuity, for areas of forest retention, reforestation and
29 afforestation; and

- 1 (ii) Limits uses in areas of forest conservation to those uses that are designated and
- 2 consistent with forest conservation, including recreational activities and forest
- 3 management practices that are used to preserve forest;
- 4 (9) Include other information the Department determines is necessary to implement this
- 5 subtitle; and
- 6 (10) Be amended or a new plan prepared, as provided in the manual, if required as a result
- 7 of changes in the development or in the condition of the site.

8

9 **Section 16.1205. Forest retention priorities.**

10 (a) *On-site forest retention required.*

11 Subdivision, site development, and grading shall leave the following vegetation and specific
 12 areas in an undisturbed condition:

- 13 (1) Trees and other vegetation identified on the lists of rare, threatened and endangered
- 14 species of the U.S. fish and wildlife service or the Maryland Department of Natural
- 15 Resources;
- 16 (2) Trees that are part of a historic site, ~~[[or]]~~ associated with a historic structure ~~OR ARE~~
- 17 ~~THEMSELVES HISTORIC STRUCTURES;~~
- 18 (3) ~~[[State champion trees, trees 75% of the diameter of state champion trees, and trees 30"~~
- 19 ~~in diameter or larger.]] TREES WITH A DIAMETER OF 75% OR MORE OF THE DIAMETER OF~~
- 20 ~~THE CURRENT STATE OR COUNTY CHAMPION TREE OF THAT SPECIES, WHICHEVER IS~~
- 21 ~~SMALLER, MEASURED AT 4.5 FEET ABOVE THE GROUND; AND~~
- 22 (4) ~~TREES THAT ARE 24 INCHES IN DIAMETER OR LARGER, MEASURED AT 4.5 FEET ABOVE~~
- 23 ~~THE GROUND.~~
- 24 (3) TREES HAVING A DIAMETER MEASURED AT 4.5 FEET ABOVE THE GROUND OF:
- 25 (I) 24 INCHES; OR
- 26 (II) 75% OF THE DIAMETER, MEASURED AT 4.5 FEET ABOVE THE GROUND
- 27 OF THE CURRENT STATE CHAMPION TREE OF THAT SPECIES.”.

28 (B) ~~PRESUMPTION:~~

29 ~~— IN THE ABSENCE OF AN APPROVED FOREST CONSERVATION PLAN AS REQUIRED BY SECTION~~
 30 ~~— 16.1204 OF THIS SUBTITLE, EACH TREE DISTURBED IS PRESUMED TO BE A SPECIMEN TREE.~~

1 ~~(b)~~ e) *On-Site Forest Retention Priorities.*

2 The following vegetation and specific areas are considered priority and are listed in order of
3 preference for on-site retention and protection in the County. Subdivision, site development,
4 and grading shall leave the following vegetation and specific areas in an undisturbed
5 condition unless demonstrated, to the satisfaction of the Department, that reasonable efforts
6 have been made to protect them and the plan cannot be reasonably altered or that forest
7 planting in an alternate location would have greater environmental benefit:

8 (1) Howard County Green Infrastructure Network, ~~THE GREEN CULTURAL TRAIL AND~~
9 ~~TARGETED ECOLOGICAL AREAS~~[[.]];

10 (2) 100-year floodplain as defined in the Subdivision Regulations[[.]];

11 ~~(3) TREES WITHIN CEMETERIES OR HISTORIC DISTRICTS THAT ARE 12~~
12 ~~INCHES IN DIAMETER OR LARGER, MEASURED AT 4.5 FEET ABOVE THE GROUND;~~

13 ~~(3)~~ 4) Stream buffers as defined in the Subdivision Regulations;

14 ~~(4)~~ 5) Forested wetlands and wetland buffers as defined in the Subdivision Regulations;

15 ~~(5)~~ 6) Critical habitat areas and forest corridors with a minimum width of 300 feet,
16 where practical, for wildlife movement;

17 ~~(6)~~ 7) Steep slopes as defined in the Subdivision Regulations and slopes of 15 percent or
18 greater with a soil erodibility factor greater than 0.35;

19 ~~(7)~~ 8) Forest contiguous with the priority areas listed above;

20 ~~(8)~~ 9) Forest contiguous with off-site forest, if the off-site forest is also protected by a
21 Forest Conservation Easement; and

22 ~~(9)~~ 10) Property line and right-of-way buffers, particularly adjacent to scenic roads.

23 ~~(c)~~ d) *Off-Site Retention.*

24 (1) The County or a developer may provide for off-site forest retention at a ratio of two
25 acres of forest retention for every one acre of forest conservation obligation. The off-
26 site forest must not be currently protected in perpetuity by easement or other long-term
27 protection measures.

28 (2) The vegetation and specific area priorities for locating off-site forest retention under
29 this subsection are the same as provided under subsection (b) of this section.

1

2 ~~**Section 2. Be it further enacted** by the County Council of Howard County, Maryland, that items~~
3 ~~(n) through (ff) of the Section 16.1201 of the County Code are hereby renumbered to be items (n)~~
4 ~~through (ii), respectively.~~

5

6 **Section 2. And Be It Further Enacted** by the County Council of Howard County,
7 Maryland that this Act shall become effective 61 days after its enactment.

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on _____, 2021.

Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 2021.

Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____, 2021.

Michelle Harrod, Administrator to the County Council

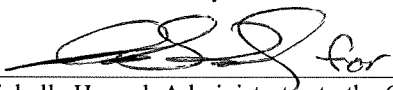
BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 2021.

Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on January 4, 2021.



Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____, 2021.

Michelle Harrod, Administrator to the County Council



HOWARD COUNTY OFFICE OF COUNTY EXECUTIVE

3430 Courthouse Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2013 Voice/Relay

Calvin Ball
Howard County Executive
cball@howardcountymd.gov

www.howardcountymd.gov
FAX 410-313-3051

December 14, 2021

The Honorable Dr. Opel T. Jones
Chair, Howard County Council
George Howard Building
3430 Court House Drive
Ellicott City, MD 21043

Re: Veto – CB78-2021

Dear Chairperson Jones:

First and foremost, I want to acknowledge our shared efforts to address a mutually identified loophole in our code that allows for the removal of priority retention trees prior to entering the development process. This loophole allows bad actors to avoid what we collectively consider to be the spirit and intent of the Forest Conservation Act, with limited and insufficient repercussions for what is broadly considered to be bad behavior.

We have placed an emphasis on preserving healthy tree cover across our County since taking office and have collaborated with the County Council to make progress on this objective. Our update to Howard County's Forest Conservation Act in 2019 was the result of a lengthy deliberative process with the Council, where the standards of our regulations were considered as we sought to bring our Act into compliance with State law and strengthen environmental regulation. Due to the constructive dialogue that we collectively engaged in throughout this process, we were able to successfully update our Act for the first time since the 1990s, passing what is now widely regarded as the strongest Forest Conservation Act in the State.

Since this summer, we have all explored the best approach to continue our work and close a loophole that allows for the removal of priority retention trees prior to entering the development process, with several pieces of legislation filed (CBs 56, 57, 64, 78, 79 and 89) that reflect differing strategies to address this issue. I asked the County Council to support CB64-2021 in September, outlining an approach to address this issue outside of the Forest Conservation Act, since the loophole that we collectively sought to close is the protection for trees prior to the application of the Act.

Last Monday, a majority of the County Council voted against CB64, opting instead to approve CB89, which aims to address this issue through a five-year "look-back" and enhanced penalty provisions within the Forest Conservation Act. While I am disappointed that CB64 failed, I am hopeful that CB89 will successfully close this loophole and end the practice of clearing priority retention trees prior to entering the development process.

2021 DEC 14 A 11:55
HOWARD COUNTY COUNCIL



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However, I have significant concerns about the passage of CB78-2021, which after an amendment that struck the vast majority of the originally proposed legislation just two full business days prior to last Monday's vote on this bill, solely reduces the on-site retention threshold for trees subject to the Forest Conservation Act from 30 inches to 24 inches. In addition to this reduction being wholly unrelated to the issue of clearing priority retention trees prior to the development process, this legislation establishes an arbitrary retention threshold that is inconsistent with both State law or that of any neighboring jurisdiction, fails to account for the desired removal of non-native and invasive trees, and creates a significant administrative burden to our staff that at no point has been publicly considered or discussed by the County Council.

By reducing the on-site retention threshold to 24 inches, CB78 establishes a new, arbitrary standard for tree retention without adequate justification or consideration for the species or health of the trees to be retained. The State standard for protected trees under the Forest Conservation Act is 30 inches diameter at breast height. We are not aware of any other jurisdiction in Maryland that applies a stricter standard and are unclear about why 24 inches would be the appropriate threshold. Without any scientific justification for this adjustment in diameter, this change is arbitrary and undermines the effort put into creating our improved Forest Conservation Act.

Additionally, CB78 provides no consideration for non-native or invasive trees, which were never intended to be preserved under the Forest Conservation Act. The Forest Conservation Manual requires that forest conservation easements be managed to minimize the presence of non-native and invasive trees because these trees jeopardize the health of forest habitats. Requiring analysis and approval for the removal of invasive trees not only runs counter to the guidance of the Forest Conservation Manual, but also creates an incentive to leave invasive species in place and plan projects around them, rather than removing them to the benefit of their natural surroundings. CB78 neglects to consider any of these factors or their impacts on the larger ecosystem.

Moreover, CB78 results in significant administrative impacts that were not contemplated by the County Council at the time of last Monday's vote, as the amount of staff time needed to inspect, review, and process forest conservation plans and requests for tree removal is anticipated to increase by at least 50% for each plan and request. Our Department of Planning and Zoning's (DPZ) Development Inspection Group (DIG) consists of two FTEs who, amongst other duties, conduct field visits for environmental review. CB78 is projected to potentially triple the number of trees that need to be field verified, creating a significant burden for staff currently responsible for field visits for environmental review, and potentially a fiscal impact due to the possible need to secure additional staff to perform this function.



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Further, by lowering the on-site retention threshold from 30 inches to 24 inches, CB78 is projected to significantly increase the number of alternative compliance requests for tree removal. This increase in alternative compliance requests will contribute to DIG positions dedicating over half their time to ensuring compliance with CB 78 and will impact the workload of reviewers across multiple departments. Such a significant shift in duties warrants a review to ensure that required work duties remain consistent with their job descriptions and may leave other duties covered by these employees unfulfilled due to the increase in time in the field or reviewing alternative compliance requests.

Based on the above stated reasons and pursuant to Charter Section 209, I wish to inform the County Council of my decision to veto CB78 as amended. I believe that CB78 is completely unrelated to objective of preventing the removal of priority retention trees prior to the development process, arbitrary and inconsistent with the intent of the Forest Conservation Act and creates a significant administrative burden that was not adequately contemplated by the County Council.

I recommend that we collectively allow CB89 sufficient time to take effect and evaluate whether it is achieving our shared goals of deterrence and forest retention at a later date. If issues persist, I look forward to working with the Council to define the problem and identify an appropriate legislative solution, as necessary.

Thank you for your attention to this matter.

All my Best,

Calvin Ball
Howard County Executive

Cc: Christiana Mercer Rigby, County Council Vice Chair
Deb Jung, County Councilmember
Liz Walsh, County Councilmember
David Yungmann, County Councilmember
Michelle Harrod, Council Administrator

Introduced 10-4-2021
Public Hearing _____
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By order _____
Michelle R. Harrod, Administrator

This Bill was read the third time on _____, 2021 and Passed _____, Passed with amendments _____, Failed _____.

By order _____
Michelle R. Harrod, Administrator

Sealed with the County Seal and presented to the County Executive for approval this _____ day of _____, 2021 at _____ a.m./p.m.

By order _____
Michelle R. Harrod, Administrator

Approved by the County Executive _____, 2021

Calvin Ball, County Executive

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Tabled 11-1-2021 Michelle Harrod

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6 Section 16.1204. Forest conservation plan.

7 Section 16.1205. Forest retention priorities.

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17 Subtitle 12. Forest Conservation.

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23 FROM THE PATAPSCO RIVER UP TO THE HEADWATERS OF SEVERAL CONVERGING
24 TRIBUTARIES AS DESCRIBED IN THE ELLICOTT CITY WATERSHED MASTER PLAN, DECEMBER
25 2020, AS AMENDED.

26 (BB) *SPECIMEN TREE* MEANS A TREE REQUIRED TO BE LEFT IN AN UNDISTURBED CONDITION
27 PURSUANT TO SECTION 16.1205(A).

28 (DD) *TARGETED ECOLOGICAL AREAS* MEANS LANDS AND WATERSHEDS OF HIGH ECOLOGICAL
29 VALUE THAT HAVE BEEN IDENTIFIED AS CONSERVATION PRIORITIES AND MAPPED BY THE
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6 forester, licensed landscape architect, or certified arborist.

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14 DISTURBING OF TREES OR VEGETATION ON-SITE WITHIN THE LAST FIVE YEARS.

15 ~~[[(2)]]~~ (3) Be used during the review process to determine the most suitable and practical
16 areas for forest conservation.

17 (d) *Forest Conservation Plan.* A forest conservation plan shall:

18 (1) State the net tract area, area of forest conservation required, and the area of forest
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22 reforestation or afforestation. IF A PROPERTY OWNER CLEARS, CUTS OR DISTURBS
23 TREES OR VEGETATION ON-SITE WITHIN THE FIVE YEARS PRIOR TO ENTERING THE
24 DEVELOPMENT OR SUBDIVISION PROCESS, THEN THOSE TREES AND VEGETATION
25 SHALL BE DESCRIBED IN THE PLAN AND THE PROPERTY SUBJECT TO THESE
26 REGULATIONS AS THOUGH STILL EXISTING ON-SITE;

27 (4) Justify the following, if existing forest cannot be retained:

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30 in an undisturbed condition;

- 1 (iii) If priority forests and priority areas cannot be left undisturbed, where on the site
2 in priority areas reforestation or afforestation will occur in compliance with
3 section 16.1208 of this subtitle;
- 4 (iv) How site design requirements will be followed to maximize meeting forest
5 conservation obligations on-site in compliance with section 16.1209 of this
6 subtitle;
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8 methods will be followed in compliance with section 16.1208 of this subtitle; and
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13 during construction to protect trees and forests designated for conservation, including
14 protection of critical root zones;
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16 plan, with a timetable, description of needed site and soil preparation, and the species,
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19 the manual that details how the areas designated for retention, reforestation or
20 afforestation will be maintained to ensure protection and satisfactory establishment,
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24 conservation requirements entirely by forest retention are not required to have a forest
25 conservation agreement;
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3 management practices that are used to preserve forest;
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- 6 (10) Be amended or a new plan prepared, as provided in the manual, if required as a result
7 of changes in the development or in the condition of the site.

8

9 **Section 16.1205. Forest retention priorities.**

10 (a) *On-site forest retention required.*

11 Subdivision, site development, and grading shall leave the following vegetation and specific
12 areas in an undisturbed condition:

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14 species of the U.S. fish and wildlife service or the Maryland Department of Natural
15 Resources;
- 16 (2) Trees that are part of a historic site, ~~[[or]]~~ associated with a historic structure OR ARE
17 THEMSELVES HISTORIC STRUCTURES
- 18 (3) ~~[[State champion trees, trees 75% of the diameter of state champion trees, and trees 30"~~
19 ~~in diameter or larger.]]~~ TREES WITH A DIAMETER OF 75% OR MORE OF THE DIAMETER OF
20 THE CURRENT STATE OR COUNTY CHAMPION TREE OF THAT SPECIES, WHICHEVER IS
21 SMALLER, MEASURED AT 4.5 FEET ABOVE THE GROUND; AND
- 22 (4) TREES THAT ARE 24 INCHES IN DIAMETER OR LARGER, MEASURED AT 4.5 FEET ABOVE
23 THE GROUND.

24 (B) *PRESUMPTION.*

25 IN THE ABSENCE OF AN APPROVED FOREST CONSERVATION PLAN AS REQUIRED BY SECTION
26 16.1204 OF THIS SUBTITLE, EACH TREE DISTURBED IS PRESUMED TO BE A SPECIMEN TREE.

27 ~~[[b]]~~ (C) *On-Site Forest Retention Priorities.*

28 The following vegetation and specific areas are considered priority and are listed in order of
29 preference for on-site retention and protection in the County. Subdivision, site development,

1 and grading shall leave the following vegetation and specific areas in an undisturbed
2 condition unless demonstrated, to the satisfaction of the Department, that reasonable efforts
3 have been made to protect them and the plan cannot be reasonably altered or that forest
4 planting in an alternate location would have greater environmental benefit:

5 (1) Howard County Green Infrastructure Network, THE GREEN CULTURAL TRAIL AND
6 TARGETED ECOLOGICAL AREAS[.];

7 (2) 100-year floodplain as defined in the Subdivision Regulations[.];

8 (3) TREES WITHIN CEMETERIES OR HISTORIC DISTRICTS THAT ARE 12
9 INCHES IN DIAMETER OR LARGER, MEASURED AT 4.5 FEET ABOVE THE GROUND;

10 ([[3]] 4) Stream buffers as defined in the Subdivision Regulations;

11 ([[4]] 5) Forested wetlands and wetland buffers as defined in the Subdivision Regulations;

12 ([[5]] 6) Critical habitat areas and forest corridors with a minimum width of 300 feet,
13 where practical, for wildlife movement;

14 ([[6]] 7) Steep slopes as defined in the Subdivision Regulations and slopes of 15 percent or
15 greater with a soil erodibility factor greater than 0.35;

16 ([[7]] 8) Forest contiguous with the priority areas listed above;

17 ([[8]] 9) Forest contiguous with off-site forest, if the off-site forest is also protected by a
18 Forest Conservation Easement; and

19 ([[9]] 10) Property line and right-of-way buffers, particularly adjacent to scenic roads.

20 ([[c]] D) *Off-Site Retention.*

21 (1) The County or a developer may provide for off-site forest retention at a ratio of two
22 acres of forest retention for every one acre of forest conservation obligation. The off-
23 site forest must not be currently protected in perpetuity by easement or other long-term
24 protection measures.

25 (2) The vegetation and specific area priorities for locating off-site forest retention under
26 this subsection are the same as provided under subsection (b) of this section.

27

1 **Section 2. Be it further enacted by the County Council of Howard County, Maryland, that items**
2 **(n) through (ff) of the Section 16.1201 of the County Code are hereby renumbered to be items (n)**
3 **through (ii), respectively.**

4
5 **Section 2. And Be It Further Enacted by the County Council of Howard County,**
6 **Maryland that this Act shall become effective 61 days after its enactment.**

