

Forest Conservation Act and Manual

Highlights of Proposed Changes

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In general, changes are proposed to:

1. **Comply with State Law (SB 666 and SB914).** Changes to the Law from SB 666 became effective October 2009 and changes from SB 914 became effective October 2010. Local jurisdictions are expected to revise their codes, regulations and manuals in accord with the model guidelines provided by the State. Proposed changes also reflect previous changes in State law that are currently incorporated into the program through policy documents.
2. **Reflect current policies and procedures.** Proposed changes incorporate policy documents and procedures that are being used by the Department of Planning and Zoning (DPZ) and Department of Recreation and Parks (DRP). These are accepted best management practices for each phase of the forest conservation program: plan preparation, plan review, implementation during the construction period, inspection and monitoring.
3. **Provide flexibility and respond to advisory committee recommendations.**
4. **Provide better protection of forest resources.** The intent is to enhance the program and meet the goal of maximizing forest retention on-site.

1. Comply with State Law (SB 666 and SB 914):

- The exemption threshold for the cutting, clearing or grading of forest on a single lot or linear project is lowered from 40,000 to 20,000 square feet of forest.
- The exemption for “previously developed and covered by paved surface” is deleted.
- Strengthened the requirement that certain forested areas be retained (floodplain, steep slopes, stream buffers, etc.) and a variance (waiver) is now required for the disturbance of: trees, shrubs or plants on the list of rare, threatened or endangered species; trees that are part of an historic site; Champion Trees; and trees having a 30-inch dbh or 75% of the diameter of a State Champion Tree.
- Fee-in-lieu funds may now be used for maintenance of existing forests and achieving urban canopy goals.
- The fee-in-lieu is now 20% higher outside the Priority Funding Area.

2. Reflect current policies and procedures:

- The proposed changes to the Manual use DRP protocols to provide more guidance on forest protection, site preparation (including invasive species control), plant selection, planting and maintenance procedures, to ensure more successful retention and planting projects.
- The preferred planting methods are rearranged to prefer planting with nursery stock over other methods. (Previously, selective clearing and supplemental planting was the preferred method.)
- Mitigation banks are preferred over off-site planting.
- Forest planting is no longer permitted on built slopes of 25% or greater.
- Larger planting stock is generally required to ensure better plant survival.
- The use of species native to Maryland is required. Species grown within a 200-mile rather than 100-mile radius are acceptable.
- The successional stage specifications are reversed to specify two-thirds early successional species and one-third mid or late successional species.
- The place in canopy specifications increase overstory trees to 75% and decrease understory trees to 25%.
- A five-year time limitation is added to the Forest Stand Delineation, which is consistent with the State Forest Conservation Act and Manual.

- Applicability and program exemptions are clarified, and the net tract area is defined for various types of development.

3. Provide flexibility and respond to advisory committee recommendations.

- The surety for forest retention easements is eliminated. Will use the enforcement provisions of the Law, rather than surety, to ensure compliance.
- Mowing of planted areas will be allowed in certain circumstances to reduce competition from invasives.
- The proposed increase in the minimum width for a forest from 35 to 50 feet is deleted. This proposed change was intended to improve the viability of retained and planted forest.

4. Provide better protection of forest resources:

- Steep slopes of 15% with a high erodibility index are added as a priority retention area.
- Fee-in-lieu requests are limited to no more than one acre of forest conservation obligation for residential properties. (If compliance with this requirement poses undue hardship, waiver requests may be submitted.)
- Site design requirements are added to maximize forest retention and planting on site before off-site compliance or fee-in-lieu requests will be considered.
 - Nonresidential developments must establish Forest Conservation Easements (FCE) in all sensitive areas. The FCE must be a minimum 75-foot width from the banks of any perennial and intermittent stream.
 - Residential developments must meet a minimum of 75% of their obligation on-site by reducing lot sizes, clustering lots and maximizing open space. Infill subdivisions of ten lots or less are excluded from this requirement.
 - Residential developments in the RC and RR zoning districts must meet all forest conservation obligations on-site before they will be permitted to import development density.
 - A 35-foot setback is required from a rear lot line for a detached or attached dwelling unit and any on-site or off-site planted Forest Conservation Easement. The setback may be eliminated if larger stock (two rows of one-inch minimum caliper) is planted along the edge of the Forest Conservation Easement.