

1 Sections 22A-3, 22A-4, 22A-5, 22A-9, 22A-11, 22A-12, 22A-21, 22A-30 and 22A-31 are
2 amended as follows:

3 **Sec. 22A-3. Definitions.**

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5 Administrative subdivision means a plan for a proposed subdivision or resubdivision prepared
6 and submitted for approval by the Planning Director under Chapter 50.6 before preparation of a
7 subdivision plat.

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9 Conditional use means a use approved under Chapter 59-7.3.1.

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11 Development plan means a plan or an amendment to a plan approved under Division 59-D-1 of
12 Chapter 59, which was in effect prior to October 30, 2014.

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14 Lot means for the purpose of this Chapter a tract of land, the boundaries of which have been
15 established as a result of deed or previous subdivision or a larger parcel, and which will not be
16 subject of further subdivision, as defined under Section 50[-1], without an approved forest stand
17 delineation and forest conservation plan

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19 Mandatory referral means the required review by the Planning Board of projects or activities to
20 be undertaken by government agencies and private and public utilities under Section [7-112] 7-
21 108.1 of Article 28 of the Maryland Code.

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23 Minor subdivision means a plan for a proposed subdivision or resubdivision prepared and
24 submitted for approval by the Planning Director under Chapter 50.7.

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27 Municipal corporation means a municipality without planning and zoning authority or which has
28 assigned its responsibilities under §5-1603(a) Annotated Code of Maryland [Subtitle 16 of the
29 Natural Resources Article of the Maryland Code] to the County.

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32 [Nontidal wetland means an area regulated as a nontidal wetland under Title 8, Subtitle 12, of the
33 Natural Resources Article of the Maryland Code.]

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Park development plan means an application submitted by the Montgomery County Parks Department for the construction and development of a specific park.

Planned unit development means a development comprised of a combination of land uses or varying intensities of the same land use, having at least 20 percent of the land permanently dedicated to open space, and in accordance with an integrated plan that provides flexibility in land use design approved by the District Council under Division 59-D-1 or by the Planning Board under Division 59-D-2 of Chapter 59, which was in effect prior to October 30, 2014.

Preliminary Plan of Subdivision means a plan for a proposed subdivision or resubdivision prepared and submitted for approval by the Planning Board under Chapter 50.4 before preparation of a subdivision plan.

Project plan means a plan or an amendment to a plan approved under Division 59-D-2 of Chapter 59, which was in effect prior to October 30, 2014.

Public utility means any:

- (1) [the]transmission line[s and the] or electric generating station[s licensed under Article 78, Section 54A and 54B or 54-I of the Maryland Code; and] ; or
- (2) water, sewer, electric, gas, telephone, and cable service [facilities and] line[s].

Site plan means a plan or an amendment to a plan approved under Division 59-D-3 of Chapter 59, which was in effect prior to October 30, 2014, or under Chapter 59.7.3.4 which became effective on October 30, 2014.

Sketch plan means a plan or amendment to a plan approved under Chapter 59.7.3.3.

Special exception means a use approved under Article 59-G of Chapter 59, which was in effect prior to October 30, 2014.

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73 Subdivision means the definition in Section 50 of the Montgomery County Code.

74 Watershed means [all lands lying with an area described as a watershed in the Countywide
75 Stream Protection Strategy] areas delineated as watersheds in the Montgomery County
76 Municipal Separate Storm Sewer System (MS4) Permit Implementation Program, or smaller
77 areas within these watersheds that are delineated by the State of Maryland as 12-Digit
78 watersheds.

79

80 Wetland means an area that is inundated or saturated by surface water or groundwater at a
81 frequency and duration sufficient to support, and under normal circumstances does support, a
82 prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known
83 as hydrophytic vegetation.

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86 **Sec. 22A-4. Applicability**

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89 (a) a person required by law to obtain an approval or amendment to a development plan,
90 diagrammatic plan, project plan, sketch plan, preliminary plan of subdivision, administrative
91 subdivision, minor subdivision, or site plan

92 (b) a person required by law to obtain approval of a special exception or a conditional use,
93 [approval] or a sediment control permit on a tract of land 40,000 square feet or larger, and who is
94 not otherwise required to obtain an approval under subsection (a);
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97 (d) a government entity subject to a mandatory referral, or a park development plan, on a tract of
98 land 40,000 square feet or larger which is not exempt under subsection 22A-5(f);

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100 **Sec. 22A-5. Exemptions.**

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103 (b) an agricultural activity that is exempt from both platting requirements under Section [50-9]
104 50-3 and requirements to obtain a sediment control permit under Section [19-2(c)(2)] 19-2(b)(2).

105 Agricultural support buildings and related activities are exempt only if built using best
106 management practices.

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109 (e) a State or County highway construction activity [that is subject to Section 5-103 of the] under
110 Natural Resources Article, Section 5-103 Annotated Code of [the] Maryland[Code], or Section
111 22A-9.

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114 (i) noncoal surface mining regulated under [Title 7 of the Natural Resources Article of the
115 Maryland Code] Environment Article, Title 15, Subtitle 8, Annotated Code of Maryland.

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118 (o) The cutting or clearing of public utility rights-of-way or land for electric generating stations
119 licensed under Public Utility Companies, §§7-207 and 7-208 or 7-205, Annotated Code of
120 Maryland [Section 54A and 54B or Section 54I of Article 78 of the Maryland Code], or land for
121 electric generating stations licensed under Public Utilities Companies §§7-207 and 7-208 or 7-
122 205, Annotated Code of Maryland, if:

- 123 (1) any required certificates of public convenience and necessity have been issued in
124 accordance with Natural Resources Article, Section 5-1603[4](f), Annotated Code of
125 Maryland [of the Natural Resources Article of the Maryland Code]; and
- 126 (2) the cutting or clearing of the forest is conducted so as to minimize the loss of forest.

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129 (q) a special exception, or conditional use, application if:

- 130 (1) the application is for an existing structure and the proposed use will not result in
131 clearing of existing forest or trees;
- 132 (2) the application modifies an existing special exception use which was approved before
133 July 1, 1991, and the revision will not result in the clearing of more than a total of 5000
134 additional square feet of forest or any specimen or champion tree; or
- 135 (3) the total disturbance area for the proposed special exception use, or conditional use,
136 will not exceed 10,000 square feet, and clearing will not exceed a total of 5000 square
137 feet of forest or include any specimen or champion tree;

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141 (t) a modification to an existing non-residential developed property if:

142 (1) no more than 5,000 square feet of forest is ever cleared at one time or cumulatively
143 after an exemption is issued;

144 (2) the modification does not result in the cutting, clearing, or grading of any forest in a
145 stream buffer or forest located on property in a special protection area which must submit a water
146 quality plan;

147 (3) the modification does not require approval of a preliminary plan or amendment to a
148 preliminary plan of subdivision;

149 (4) the modification does not increase the developed area by more than 50% and the
150 existing development is maintained.

151 ***

152 **Sec. 22A-9. County Highway Projects.**

153 ***

154 (a) General.

155 (1) This section applies to construction of a highway by the County as part of an
156 approved Capital Improvements Program project.

157 (2) The construction should minimize forest [cutting or clearing] removal, land
158 disturbance, and loss of specimen or champion trees to the extent possible while
159 balancing other design, construction, and environmental standards. The constructing
160 agency must make a reasonable effort to minimize land disturbance to avoid the cutting
161 or clearing of trees and other woody plants.

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163 ***

164 **Sec. 22A-11. Application, review, and approval procedures**

165

166 (a) General.

167 (1) Coordinated with project review. The forest stand delineation and forest conservation
168 plan must be submitted and reviewed in conjunction with the review process for a
169 development plan, project plan, sketch plan, [preliminary plan of subdivision]
170 subdivision plan, special exception, conditional use, mandatory referral, park
171 development plan, or sediment control permit in accordance with this Section.

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173

174 (b) Project requiring development plan, project plan, preliminary plan of subdivision, or site plan
175 approval.

176 (1) Forest stand delineation. The applicant must submit to the Planning Director a forest
177 stand delineation with the application for a development plan, project plan, preliminary
178 plan of subdivision, or site plan, whichever comes first. Within 30 days of receipt, the

179 Planning Director must notify the applicant whether the forest stand delineation is
180 complete and correct. If the Planning Director fails to notify the applicant within 30 days,
181 the delineation will be treated as complete and correct. The Planning Director may
182 require further information or provide for one extension of this deadline for an additional
183 15 days for extenuating circumstances. The applicant must submit revised drawings to
184 address comments within 90 days from the date the Planning Director sends comments to
185 the applicant. If the applicant fails to submit revised drawings, the application is deemed
186 withdrawn.

187
188 (2) Forest Conservation Plan
189 (A) Application. After being notified that the forest stand delineation is complete and
190 correct, the applicant must submit a forest conservation plan to the Planning
191 Director. If the development proposal will require more than one of the approvals
192 subject to this subsection, the applicant must submit a preliminary forest
193 conservation plan to the Planning Director in conjunction with the first approval
194 and a final forest conservation plan in conjunction with the last approval. If only
195 one approval subject to this subsection is required, an applicant must submit a
196 preliminary forest conservation and a final forest conservation plan at the time of
197 the development application [and a final forest conservation plan before a
198 sediment control permit is issued for the tract, but no later than a record plat is
199 submitted].

200 ***

201 (c) Project requiring special exception, or conditional use, approval.
202 (1) Forest stand delineation. If a special exception, or conditional use, proposal is subject
203 to the requirements of this Chapter, the applicant must submit a forest stand delineation
204 to the Planning Director before the Board of Appeals may consider the application for the
205 special exception. The deadlines for reviewing a forest stand delineation are the same as
206 in paragraph (b)(1) of this Section.

207
208 (2) Forest conservation plan. Upon notification that the forest stand delineation is
209 complete and correct, the applicant must submit a preliminary forest conservation plan to
210 the Planning Director. The Board of Appeals must consider the preliminary forest
211 conservation plan when approving the special exception, or conditional use, application
212 and must not approve a special exception, or conditional use, application that is in
213 conflict with the preliminary forest conservation plan. A final forest conservation plan
214 must be submitted before obtaining a sediment control permit, or at the time of
215 preliminary plan of subdivision or site plan application, if required. The deadlines for
216 reviewing a final forest conservation plan are the same as in paragraph (d)(2) of this
217 Section

218 ***

219 (e) Project requiring mandatory referral or Park Development Plan.
220 (1) Forest stand delineation. A person seeking mandatory referral or a park development
221 plan for a project that is subject to the requirements of this Chapter must first submit a

222 forest stand delineation to the Planning Director for review. The deadlines for reviewing
223 a forest stand delineation are the same as in paragraph (b)(1) of this Section.

224 (2) Forest conservation plan. Upon notification that the forest stand delineation is
225 complete and correct, the applicant must submit to the Planning Director a preliminary
226 forest conservation plan. The Planning Board must consider the preliminary forest
227 conservation plan when reviewing the mandatory referral application, or the park
228 development plan. The deadlines for reviewing the final forest conservation plan are the
229 same as in paragraph (d)(2) of this Section.

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231 ***

232 (f) Project requiring sketch plan approval.

233 (1) Forest stand delineation. The applicant must submit to the Planning Director a forest
234 stand delineation before the sketch plan application. The deadlines for reviewing a forest
235 stand delineation are the same as in paragraph (b)(1) of this Section.

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237 (2) Forest conservation plan. Upon notification that the forest stand delineation is
238 complete and correct, the applicant must submit a preliminary forest conservation plan to
239 the Planning Director with the first development application after approval of the sketch
240 plan. The deadlines for reviewing a preliminary and final forest conservation plan are the
241 same as in paragraph (b)(2)(B) and (b)(2)(C) of this Section.

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244 (g) Project requiring administrative subdivision approval.

245 (1) Forest stand delineation. The applicant must submit to the Planning Director a forest
246 stand delineation before the administrative subdivision application. The deadlines for
247 reviewing a forest stand delineation are the same as in paragraph (b)(1) of this Section.

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249 (2) Forest conservation plan. Upon notification that the forest stand delineation is
250 complete and correct, the applicant must submit a preliminary forest conservation plan to
251 the Planning Director. The Planning Director must consider the preliminary forest
252 conservation plan when approving the administrative subdivision application and must
253 not approve an administrative subdivision application that is in conflict with the
254 preliminary forest conservation plan. A final forest conservation plan must be submitted
255 and approved before obtaining a sediment control permit, or record plat, whichever
256 comes first. The deadlines for reviewing a final forest conservation plan are the same as
257 in paragraph (d)(2) of this Section. If the Director defers the approval of an
258 administrative subdivision to the Planning Board, the Planning Board must review and
259 act on the preliminary forest conservation plan with the administrative subdivision plan.
260 The deadlines for reviewing a final forest conservation are the same as in paragraph
261 (2)(C) of this Section.

262

263 **Sec. 22A-12. Retention, afforestation, and reforestation requirements.**

264 ***

265 (e) Standards for reforestation and afforestation.

266 ***

267 (5) Priority areas and plantings. Afforestation and reforestation should be directed to
268 stream buffer areas, connections between and additions to forested areas, critical habitat
269 areas, topographically unstable areas, and land use and road buffers. The use of native
270 plant materials is preferred. [Unless the Planning Board or Planning Director order
271 otherwise, the required use of natural regeneration under this Chapter supercedes any
272 prohibition under Chapter 58.]
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274 ***

275 (f) Special provisions for minimum retention, reforestation and afforestation.

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277 ***

278 (2) Retention, reforestation and afforestation. Forest retention should be maximized
279 where possible on each site listed in this subsection. At a minimum, on-site forest
280 retention, and in some cases reforestation and afforestation, must be required as follows:

281 (A) In an agricultural and resource area, on-site forest retention must equal 25%
282 of the net tract area.

283 (B) In a planned development or a site development using a cluster or other
284 optional method of development in a one-family residential zone, on-site forest
285 retention must equal the applicable conservation threshold in subsection (a). This
286 requirement also applies to any site seeking a waiver or variance from base zone
287 standards under Section 59-C-1.393(b), 59-C-1.395, 59-C-1.532, 59-C-1.621, or
288 59-C-7.131, which was in effect prior to October 30, 2014, or Sections 59-
289 4.9.16.B (Transferable Development Rights) and 59-5.2 (Residential Floating
290 Zones) if as a condition of the waiver or variance the Planning Board or County
291 Council must find that the resulting development is environmentally more
292 desirable.
293

294 ***

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296 (h) Agreements

297 (1) Maintenance agreement. A forest conservation plan must include a two-year binding
298 agreement for maintenance of conservation areas, including the watering (as practical),
299 feeding and replanting of areas to be afforested or reforested outside of Special Protection
300 Areas, and five-years for plantings inside of Special Protection Areas. The [2-year]

301 binding agreement for maintenance starts upon satisfactory [final] inspection of the
302 plantings [measures] required under the forest conservation plan.....

303 **Sec. 22A-21. Variance.**

304 ***

305 (c) Referral to other agencies for non 22A-12(b)(3) variance requests. Before the Planning Board
306 considers a variance, not related to 22A-12(b)(3), the Planning Director [Board] must send a
307 copy of each request to the County Arborist, [Planning Director,] and any other appropriate
308 agency for a written recommendation before the Board, or Planning Director, as appropriate, acts
309 on the request. If a recommendation on the variance is not submitted to the Planning Board, or
310 Planning Director, as appropriate, within 30 days after the referral, the recommendation must be
311 presumed to be favorable.

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313 **Sec. 22A-30. County Arborist**

314 ***

315 (c)(4) review and variance requests under Article II but not including those under 22A-12(b)(3).

316 ***

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318 **Sec. 22A-31. Forest Conservation Advisory Committee**

319 ***

320 (c) The Executive must designate a staff member from each of the following departments to
321 serve as an ex office member:

322 (A) [Economic Development] Agricultural Services