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

Sec. 22A-3. Definitions.

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

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

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

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

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

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

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

[Nontidal wetland means an area regulated as a nontidal wetland under Title 8, Subtitle 12, of the Natural Resources Article of the Maryland Code.]
**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.
Subdivision means the definition in Section 50 of the Montgomery County Code.

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

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

Sec. 22A-4. Applicability

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

(b) a person required by law to obtain approval of a special exception or a conditional use, [approval] or a sediment control permit on a tract of land 40,000 square feet or larger, and who is not otherwise required to obtain an approval under subsection (a);

(d) a government entity subject to a mandatory referral, or a park development plan, on a tract of land 40,000 square feet or larger which is not exempt under subsection 22A-5(f);

Sec. 22A-5. Exemptions.

(b) an agricultural activity that is exempt from both platting requirements under Section [50-9] 50-3 and requirements to obtain a sediment control permit under Section [19-2(c)(2)] 19-2(b)(2).
Agricultural support buildings and related activities are exempt only if built using best management practices.

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

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

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

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

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

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

(t) a modification to an existing non-residential developed property if:
(1) no more than 5,000 square feet of forest is ever cleared at one time or cumulatively after an exemption is issued;

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

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

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

Sec. 22A-9. County Highway Projects.

(a) General.

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

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

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

(a) General.

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

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

(1) Forest stand delineation. The applicant must submit to the Planning Director a forest stand delineation with the application for a development plan, project plan, preliminary plan of subdivision, or site plan, whichever comes first. Within 30 days of receipt, the
Planning Director must notify the applicant whether the forest stand delineation is complete and correct. If the Planning Director fails to notify the applicant within 30 days, the delineation will be treated as complete and correct. The Planning Director may require further information or provide for one extension of this deadline for an additional 15 days for extenuating circumstances. The applicant must submit revised drawings to address comments within 90 days from the date the Planning Director sends comments to the applicant. If the applicant fails to submit revised drawings, the application is deemed withdrawn.

(2) Forest Conservation Plan

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

(c) Project requiring special exception, or conditional use, approval.

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

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

(e) Project requiring mandatory referral or Park Development Plan.

(1) Forest stand delineation. A person seeking mandatory referral or a park development plan for a project that is subject to the requirements of this Chapter must first submit a
forest stand delineation to the Planning Director for review. The deadlines for reviewing a forest stand delineation are the same as in paragraph (b)(1) of this Section.

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

(f) Project requiring sketch plan approval.

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

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

(g) Project requiring administrative subdivision approval.

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

(2) Forest conservation plan. Upon notification that the forest stand delineation is complete and correct, the applicant must submit a preliminary forest conservation plan to the Planning Director. The Planning Director must consider the preliminary forest conservation plan when approving the administrative subdivision application and must not approve an administrative subdivision application that is in conflict with the preliminary forest conservation plan. A final forest conservation plan must be submitted and approved before obtaining a sediment control permit, or record plat, whichever comes first. The deadlines for reviewing a final forest conservation plan are the same as in paragraph (d)(2) of this Section. If the Director defers the approval of an administrative subdivision to the Planning Board, the Planning Board must review and act on the preliminary forest conservation plan with the administrative subdivision plan. The deadlines for reviewing a final forest conservation are the same as in paragraph (2)(C) of this Section.
Sec. 22A-12. Retention, afforestation, and reforestation requirements.

(e) Standards for reforestation and afforestation.

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

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

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

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

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

(h) Agreements

(1) Maintenance agreement. A forest conservation plan must include a two-year binding agreement for maintenance of conservation areas, including the watering (as practical), feeding and replanting of areas to be afforested or reforested outside of Special Protection Areas, and five-years for plantings inside of Special Protection Areas. The [2-year]
binding agreement for maintenance starts upon satisfactory [final] inspection of the plantings [measures] required under the forest conservation plan…..

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

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

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

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

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

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

(A) [Economic Development] Agricultural Services