

Ordinance No. 229
Introduced: May 20, 2024
Public Hearing:
Enacted:
Effective:

**TOWN OF POOLESVILLE, MARYLAND
FOREST CONSERVATION**

AN ORDINANCE of the Town of Poolesville, Maryland to amend the Poolesville Code of Ordinances, Chapter 7, titled “Forest Conservation”.

PURSANT to Section 82.12(65) of the Charter of the Town of Poolesville, Maryland, Title 4 of the Land Use Article of the Annotated Code of Maryland, and applicable provisions of the Code of the Town of Poolesville, the Commissioners of the Town of Poolesville are empowered to exercise planning and zoning powers within the Town of Poolesville, Maryland; and

WHEREAS, under the requirements of Land Use Article of the Maryland Annotated Code and the Poolesville Planning and Zoning Commission shall review proposed zoning amendments and offer comment thereon which it has done; and

WHEREAS, THE Commissioners of Poolesville have determined that to meet the requirements of Natural Resources Article, §§ 5-1601 - 5-1612, Annotated Code of Maryland, the provisions of this chapter must be amended; and

WHEREAS, the Commissioners of Poolesville held a public hearing on the Ordinance on _____ to receive public input and comment.

NOW THEREFORE, BE IT ORDAINED BY THE COMMISSIONERS OF POOLESVILLE, MARYLAND THAT:

Section One:

Article I

Sec. 7.2. Definitions

Stream Restoration Project means an activity that:

1. Is designed to stabilize stream banks or enhance stream function or habitat located within an existing stream, waterway, or floodplain.
2. Avoids and minimizes impacts to forests and provides for replanting on-site an equivalent number of trees to the number removed by the project.
3. May be performed under a municipal separate storm sewer system permit, a watershed implementation plan growth offset, or another plan administered by the state or local government to achieve or maintain water quality standards; and
4. Is not performed to satisfy stormwater management, wetlands mitigation, or any other regulatory requirement associated with proposed development activity.
5. Any stream restoration project for which the applicant for a grading or sediment control permit has executed a binding maintenance agreement of at least 5 years with the affected property owner; and
6. Maintenance or retrofitting of a stormwater management structure that may include clearing of vegetation or removal and trimming of trees, so long as the maintenance or retrofitting is within the original limits of disturbance for construction of the existing structure, or within any maintenance easement for access to the structure.

Solar Photovoltaic Facilities are not subject to forest conservation.

Section Two:

Sec. 7.3 Application

A.

1. A person making application for a subdivision, site plan, grading, or sediment control approval on units of land ~~forty thousand (40,000)~~ twenty thousand (20,000) square feet or greater after the effective date of this chapter.
2.
3. A unit of county or municipal government, including a public utility or public works project making application for a subdivision, project plan, grading, or sediment control approval on areas ~~forty thousand (40,000)~~ twenty thousand (20,000) square feet or greater.

B.

3. Agricultural activities not resulting in a change in land use category, including agricultural support buildings and other related structures built using accepted best management practices, except that a person engaging in an agricultural activity clearing ~~forty thousand (40,000)~~ twenty thousand (20,000) square feet or greater of forest within a one-year period, may not receive an agricultural exemption, unless the person files a declaration of intent as provided for in Section 3.3 of this article which includes:

Section Three:

Sec. 7.5 General Requirements

A.

A person making application after the effective date of January 1, 1993, **New Date** for subdivision or site plan approval, a grading permit, or a sediment control permit for an area of land of ~~forty thousand (40,000)~~ **twenty thousand (20,000)** square feet or greater shall:

Section Four:

Article II

Sec. 7.21 Generally

The applicant shall demonstrate to the satisfaction of the Planning Commission that the requirements for afforestation or reforestation onsite ~~or offsite~~ cannot be reasonably accomplished if the applicant proposes to ~~make a payment into the local forest conservation fund instead of afforestation or reforestation.~~ **use the Town's Forest Bank. Fee in lieu will not be accepted and afforestation planting costs will be at the developer's expense.**

Section Five:

Sec. 7.23 The final forest conservation plan.

4. Incorporate a binding ~~two (2)-year~~ **three (3)-year** maintenance agreement specified in COMAR 08.19.05.01 that details how the areas designated for afforestation or reforestation will be maintained to ensure protection and satisfactory establishment, including:

Section Six:

Sec. 7.24 Afforestation and retention.

- A. *Afforestation requirement.* A person making application after the effective date of this Chapter for subdivision or site plan approval, a grading permit, or a sediment control permit for an area of land of ~~forty thousand (40,000)~~ **twenty thousand (20,000)** square feet or greater, shall:

Section Seven:

~~Sec. 7.27. Payment instead of afforestation and reforestation.~~ **(Removed in its entirety)**

- ~~A. *Forest conservation fund.* There is established a Forest Conservation Fund in the Poolesville program.~~
- ~~B. *Other methods of payment.* If a person subject to this Chapter demonstrates to the satisfaction of the Planning Commission that requirements for reforestation or afforestation onsite or offsite cannot be reasonably accomplished, the person shall contribute~~

~~money, at a rate of thirty (30) cents per square foot of the area of required planting, into the Poolesville Forest Conservation Fund, and adjusted for inflation as determined by the Commissioners annually by regulations after September 30, 2014. (Amended 02-01-10)~~

~~C. Payment due in ninety days. Money contributed instead of afforestation or reforestation under this article shall be paid within ninety (90) calendar days after development project completion.~~

~~D. Money deposited in the Poolesville Forest Conservation Fund:~~

- ~~1. May be spent on the costs directly related to reforestation and afforestation, including the site identification, acquisition, preparation and maintenance of forest conservation areas;~~
- ~~2. Shall be deposited in a separate Forest Conservation Fund; and~~
- ~~3. May not revert to the General Fund.~~

~~E. Sites for afforestation or reforestation using fund money.~~

~~Except as provided in Subsection D.2. of this Section, the reforestation or afforestation requirement under this article shall occur in the watershed in which the project is located. (Ord. No. 122, § 1(7.10.1), 12-21-92; Amended 3-21-11)~~

Section Eight:

Sec. 7-29 Financial security for afforestation and reforestation.

D. If, after ~~two (2)~~ **three (3)** growing seasons, the plantings associated with the afforestation or reforestation meet or exceed the standards of the State Forest Conservation Technical Manual, the amount of the cash bond, letter of credit, surety bond, or other security shall be returned or released.

Section Nine:

Sec. 7.31 Forest Bank

F. A person **or organization** who owns property which is or is not forested may submit an application to the Town for approval of a Forest Bank

James E. Brown, President
Commissioners of Poolesville

A TRUE COPY ATTEST:

Margaret A. Leibrand, Town Clerk