

Ordinance No. 10-09

ORDINANCE:

To amend Chapter 10.5 of the Rockville City Code entitled "Forest and Tree Preservation" so as to conform various provisions to the City's new Zoning Ordinance adopted by Ordinance No. 19-08, and to further clarify when a Forest Stand Delineation must be submitted

BE IT ORDAINED BY THE Mayor and Council of Rockville, that Chapter 10.5 of the Rockville City Code entitled "Forest and Tree Preservation" be amended as follows:

SECTION 1. That Article 1 "In General," Section 10.5-5 "Definitions" be amended to read as follows:

CHAPTER 10.5 FOREST AND TREE PRESERVATION

ARTICLE I. IN GENERAL

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Sec. 10.5-5. Definitions.

For purposes of this chapter and the Conservation Manual, the following words, terms and phrases shall have the meaning respectively ascribed to them as set forth below. Any word, term, or phrase not defined herein or in the Conservation Manual shall have the meaning ascribed to them in state law or regulation.

* * *

Covered activity means any of the following activities occurring in connection with a tract within the City:

- (1) Subdivision of land;
- (2) An activity that requires a grading and sediment control permit;

(3) An activity that requires a [use permit] site plan or a [use permit]project plan, or a site plan or project plan amendment;

(4) A planned development as defined in this section.]

Covered approval means approval of a subdivision (preliminary or final), site plan or project plan or amendment thereto, or of [a] an amendment to a planned development, as defined herein.

Covered permit means [a use permit, an amendment to a use permit or] a sediment control permit issued by the City. A sediment control permit is required by Chapter 19 before any grading can be performed.

* * *

Environmental guidelines means guidelines adopted by Mayor and Council Resolution No. 11-99[, as may hereafter be amended or modified, requiring identification of natural resources and the implementation of buffers and other strategies and techniques to preserve and protect the environment and to mitigate the adverse impact of development on the environment] establishing guidelines for the protection and enhancement of the City's natural resources as that document may be amended or revised.

* * *

Planned development means a [planned residential unit development, a residential townhouse development, and comprehensive planned development as] development located in a Planned Development Zone as set forth in Chapter 25 (Zoning Ordinance), [Article XII ("Special Development Procedures")] Section 25.14.07 .

* * *

Recorded lot, for purposes of this chapter only means a unit of land, the boundaries of which have been established by a deed or subdivision plat recorded in the land records of Montgomery County, but does not include an ownership lot as defined in Chapter 25 (Zoning Ordinance) of this Code.

* * *

[*Single-family*] Single dwelling unit residential lot, for purposes of this chapter means a lot regardless of zone, improved with a structure containing not more than one single dwelling unit. This term includes townhouses and semi-detached dwellings located on separate lots and [one-family dwellings] single dwelling units that are modified to include an accessory apartment approved by special exception. This term does not include any common area owned by a homeowner's association or similar entity.

* * *

Subdivision means the division of a lot, tract or parcel of land into two (2) or more lots, plats sites, or other divisions of land or assemblage of land for the purpose, whether immediate or future, of sale, lease, transfer of ownership, or development. "Subdivision" includes resubdivision, but does not include the creation of ownership lots as that term is defined in chapter 25 (Zoning Ordinance).

* * *

Tract for a planned development activity within a Planned Development Zone means the entire property [subject to a planned development] within the zone.

* * *

SECTION 2. That Article II, "Forest Stand Delineation and Forest Conservation Plans," Section 10.5-11 "General Requirements," Section 10.5-13 "Criteria for forest conservation plans" be amended to read as follows:

ARTICLE II. FOREST STAND DELINEATION AND FOREST CONSERVATION PLANS

Sec. 10.5-11. General requirements.

(a) Except as otherwise provided in this chapter or in the Conservation Manual, a person filing an application for a covered permit or approval shall submit a Forest Stand Delineation and a Forest Conservation Plan as part of, or in connection with, the application.

(b) Exceptions. The submissions referenced in subsection (a) are not required:

(1) Where an application for permit or approval is filed by the owner of a [single-family] single dwelling unit residential lot in connection with construction or land disturbing activity not involving subdivision of the lot and where less than forty thousand (40,000) square feet of forest is disturbed.

(2) Where a Final Forest Conservation Plan has been approved within the preceding five (5) years in connection with the same development activity, unless the City Forester determines that there has been a significant alteration in the environment of the site or change in applicable law, policy, or regulation since the approval of the plan.

(3) For a [use permit] site plan, project plan or [use permit] site plan or project plan amendment, where a sediment control permit is not required for the development activity, unless the proposed development activity shows disturbance within or adjacent to the critical root zone of significant trees or trees protected by an existing Forest Conservation Easement. This exception applies only to the submission of a Forest Conservation Plan. A Forest Stand Delineation must accompany all applications for site plans, project plans, or amendments thereto, unless exempted by subsections (b)(1), (2), or (4) of this section.

(4) Where an application for subdivision of a tract is filed for the purpose of facilitating the financing or transfer of the tract or portion thereof, and where no additional development on the tract occurs, provided that the property owner executes and records among the Land Records a declaration of intent and/or such other documents, acceptable in form and content to the City Forester and the City Attorney setting forth the obligation for compliance with this chapter in connection with future development of the tract.

(c) * * *

(d) * * *

(e) * * *

* * *

Sec. 10.5-13. Criteria for forest conservation plans.

(a) * * *

(b) * * *

(c) Preliminary Forest Conservation Plan.

(1) A Preliminary Forest Conservation Plan may be submitted in connection with:

a. A preliminary plan of subdivision;

b. [An exploratory application or concept plan for a planned development] A project plan or site plan;

c. [Any situation where development is anticipated to occur in stages or phases.]

[d.] Any other situation where the City Forester deems appropriate.

(2) * * *

(3) * * *

(4) * * *

(d) * * *

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SECTION 3. That Article III "Retention, Tree Replacement, Afforestation and Reforestation Requirements" Section 10.5-22 "Tree replacement, reforestation and afforestation" and Section 10.5-24 "Payment in lieu of tree replacement, reforestation and afforestation" be amended to read as follows:

**ARTICLE III. RETENTION, TREE REPLACEMENT,
AFFORESTATION AND REFORESTATION REQUIREMENTS**

* * *

Sec. 10.5-22. Tree replacement, reforestation and afforestation.

- (a) Tree replacement and reforestation. * * *
- (b) Afforestation. * * *
- (c) Conservation thresholds and afforestation levels.

Applicable Zones	Conservation Threshold (percent)	Afforestation Level (percent)
[R-E, R-S] R-400, R-200	30	20
R-90, R-75, R-60, R-150	25	15
R-40, [R-30, R-20, RTH, RPR, R-H] RMD10, RMD15, RMD25	15	15
[C-1, C-2, I-1, I-2, I-3, I-4, O-1, O-2, O-3, TC-1, TC-2, TC-3, TC-4, RPC] I-L, I-H, RPR, RPC, MXT, MXC, MXNC, MXB, MXE, MXCD, MXTD	15	15

For planned developments the thresholds and levels are those applicable to the [underlying zone, unless different thresholds and/or levels are expressly established by the Mayor and Council as part of the development approval] designated equivalent zone for each planned development, as set forth in Chapter 25 (Zoning Ordinance); Article 14.

(d) Minimum tree cover. The afforestation level shall be the minimum amount of tree cover to be provided on site, except in the [TC and] RPC, RPR, MXCD, MXTD and MXNC zones, where the minimum tree cover shall be ten (10) percent of the tract area. Replacement trees, reforestation, afforestation and existing trees can be used to satisfy tree cover requirements. Tree cover requirements shall be calculated and shown on the Forest Conservation Plan.

(e) * * *

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Sec. 10.5-24. Payment in lieu of tree replacement, reforestation and afforestation.

- (a) * * *
- (b) The City may use funds from the City Forest Conservation Fund for those purposes authorized by the State Forest Conservation Technical Manual or the DNR. Funds shall not be used to plant or maintain trees on [single-family] single dwelling unit residential lots.
- (c) * * *

SECTION 4. That Article V. "Individual Tree Removal," Section 10.5-32 "Trees on private property" be amended to read as follows:

ARTICLE V. INDIVIDUAL TREE REMOVAL

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Sec. 10.5-32. Trees on private property.

(a) This section does not apply to the removal of any significant tree located on a single-family residential lot that is not otherwise subject to the provisions of this chapter, except that the portion of a public right-of-way abutting a single [family] dwelling unit residential lot is subject to section 10.5-31.

(b) * * *

(c) * * *

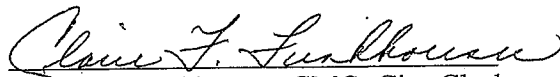
(d) * * *

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NOTE: [Brackets] indicate material deleted
Underlining indicates material added
Asterisks * * * indicate material unchanged by this ordinance

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I hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the Mayor and Council at its meeting of March 23, 2009.


Claire F. Funkhouser, CMC, City Clerk