

THIS DOCUMENT IS INTENDED TO PROVIDE SAMPLE LANGUAGE FOR FOREST CONSERVATION INSTALLATION AND MAINTENANCE AGREEMENTS. THE DOCUMENT SHOULD BE MODIFIED AS NEEDED TO MEET THE SPECIFIC REQUIREMENTS OF EACH DEVELOPMENT SITE AND FOREST CONSERVATION PLAN. THE PLANNING COMMISSION HAS FINAL APPROVAL AUTHORITY ON THE LANGUAGE OF THE DOCUMENT.

**FOREST CONSERVATION ORDINANCE
INSTALLATION AND MAINTENANCE AGREEMENT**

Project Title: _____
(as it appears on the approved Forest Conservation Plan)

Project ID #: _____
(as assigned by the Planning Department)

THIS AGREEMENT, made this ____ day of _____, 20__ by and between _____, hereinafter referred to as "Applicant" and Washington County, Maryland, hereinafter referred to as "County".

RECITALS

The applicant owns, has a binding contract for purchase, or has legal development rights for a certain parcel(s) of real estate and desires to obtain approval to make improvements through either subdivision, development, or grading of the parcel(s) in accordance with the appropriate County regulations. As a condition of subdivision, development, or grading it has been determined that compliance with the Washington County Forest Conservation Ordinance is required. This compliance shall include but not be limited to: obtaining approval of a forest stand delineation, obtaining approval of a forest conservation plan, obtaining approval of the form and amount of financial security to meet afforestation or reforestation requirements, execution of a two year maintenance agreement, and the establishment of long term protective provisions in accordance with the Forest Conservation Ordinance.

NOW, THEREFORE, in consideration of these premises and in order to comply with specific provisions of the Washington County Forest Conservation Ordinance, the applicant agrees as follows:

1. The applicant shall provide, plant and protect trees in accordance with an approved forest conservation plan.
2. An executed two year maintenance agreement is required with the forest conservation plan.

3. The two year maintenance agreement provided by the applicant shall include a narrative which addresses the following terms:

- a. Watering
- b. Fertilizing
- c. Control of competing vegetation
- d. Protection from diseases, pests, mechanical injury,
- e. Reinforcement planting provisions if survival falls below accepted levels, and
- f. The name of the individual or company responsible for tree care.

If these items are addressed on the approved forest conservation plan then a reference can be attached to this agreement indicating where the items addressed in the forest conservation plan can be found.

4. The applicant shall post financial security in the form of cash, certified check, surety bond, or irrevocable letter of credit, as security to comply with afforestation or reforestation requirements. A cost estimate detailing the amount of financial security proposed to be posted by the applicant shall be attached to this agreement for review and approval by the Planning Commission.

The security shall ensure that the afforestation or reforestation requirements are performed and the planting is maintained for a minimum two year period following the planting. If the applicant fails to perform the required plantings, fails to maintain the planted trees, or the number of surviving trees falls below the required survival rate at the time of final inspection; then the County may take such action as necessary to obtain the posted security.

5. The following provisions shall apply to the security posed by the applicant.

a. The amount and form of surety approved by the Planning Commission must be submitted to the County prior to the County signing off on a subdivision plan for recordation, signing off on a site plan, issuance of a grading permit or issuance of a building permit if no subdivision or site plan approval is required.

b. The release of the surety shall follow receipt by the applicant of written notice from the County stating that all afforestation or reforestation requirements have been met. The written notice shall be sent following a final site inspection and determination by the County that the Forest Conservation Plan has been successfully implemented.

c. The required maintenance period shall begin upon inspection of the afforestation or reforestation areas for compliance with the plantings proposed in the forest conservation plan. **It is the responsibility of the developer to contact the Washington County Planning Department within five (5) days of completion of the plantings to arrange for an inspection.** If upon inspection it is determined that all plantings have been completed in accordance with the approved Forest Conservation Plan, written notice will be sent to the applicant indicating that the two year maintenance period has begun. The date of inspection shall be used as the date the two year maintenance period shall commence.

d. After one year from the date of the inspection and determination that the Forest Conservation Plan has been successfully installed per Section 5.c above, the applicant shall contact the Planning Department to evaluate survival rates as required at the end of the two year maintenance period. At the time it will be determined if reinforcement plantings will be required in accordance with the provisions outlined in the forest conservation plan or maintenance agreement narrative. If reinforcement plantings are necessary, a schedule for replanting and inspection shall be developed by the responsible party and approved by the Washington County Planning Department.

After one year the applicant may request reduction of the amount of the financial security through written request to the Planning Department. The written request must include justification for reducing the amount of financial security along with revised estimates or actual costs to ensure afforestation or reforestation requirements are met.

e. Two years from the date of the successful installation and inspection as stated in Section 5.c above, the Applicant shall contact the Planning Department to arrange for a final inspection. If all requirements of the forest conservation plan are met, written notice along with release of the bond will be sent by the Planning Department within 30 days of final inspection.

f. If construction on site occurs where a forest conservation plan has been approved which provides for the mitigation of all or a portion of the forest conservation requirements by retention of existing forests, then an additional inspection will be required. The applicant shall notify the Planning Department prior to any construction for an inspection to determine that the forest areas which are not to be disturbed are appropriately marked and delineated with the proper signage as shown on the approved forest conservation plan.

6. The survival rate for afforestation and reforestation areas shall be a minimum of _____ trees per acre or at least _____% of the total number of trees planted per acre under the approved plan, whichever is greater.

7. The applicant understands and agrees to be bound by all the terms and conditions of this agreement as well as all provisions of the Washington County Forest Conservation Ordinance as amended and the approved Forest Conservation Plan for the site.

8. This agreement shall be governed by the laws of the State of Maryland.

9. The agreement shall insure to the benefit of the parties hereto, their heirs, personal representatives, legal representatives, successors and assigns, as appropriate.

10. The agreement contains the complete and final agreement between the parties and no representations not herein contained, whether written or oral, shall apply.

WITNESS the hands and seals of the applicant(s) in the date and year first above written.

WITNESS:

APPLICANT

APPLICANT

STATE OF MARYLAND, COUNTY OF WASHINGTON, to-wit:

I HEREBY CERTIFY that on this ____ day of _____, 20__ before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared _____, known to me (or satisfactorily proven) to be the person(s) whose names(s) is/are subscribed to the within instrument and did acknowledge that he/she/they executed same for the purposes therein contained.

WITNESS my hand and Official Notaries Seal

Notary Public

My Commission Expires:_____