



FREDERICK COUNTY GOVERNMENT

DIVISION OF PLANNING AND PERMITTING

Department of Development Review & Planning

Jan H. Gardner
County Executive

Steven C. Horn, Division Director

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FEE-IN-LIEU PROGRAM

Section 1-21-24 of the Forest Resource Ordinance (FRO)

- (A) Creation and administration. There is hereby created a Frederick County Forest Conservation Fund that shall be referred to as "fee-in-lieu program," and which shall accept payments known as "fee-in-lieu payments." The Department shall administer the fee-in-lieu program.
- (B) **Application.** An applicant required by §§ 1-21-41 or 1-21-42 of this chapter to conduct forestation may make a payment to the fee-in-lieu program of \$0.43 per square foot (within the priority funding area) or \$0.54 per square foot (outside the priority funding area) of the area of required planting upon determination by the Department, based on the applicant's demonstration, that forestation or forest mitigation cannot reasonably be accomplished by the applicant on-site or off-site, as provided in § 1-21-40.
- (C) Timing of payment. Money contributed in lieu of forestation under this section shall be paid prior to the release of building, grading, or sediment and erosion control permits, or prior to recordation of subdivision plats, whichever is earlier.
- (D) Expenditure of fees.
- (1) The county shall expend or encumber the fee-in-lieu money in accordance with subsection (2) and (3) below.
- (2) Money contributed under this section:
- (a) May be used for forestation, including site identification, acquisition, preparation, and maintenance; for maintenance of existing forests that are protected by a long term protective agreement as defined in this chapter; and for achieving urban canopy goals;

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- (b) Shall be deposited in a separate fee-in-lieu account; and
 - (c) Shall not revert to the General Fund and shall not be used to administer the forest banking program, but may be used to purchase forest banking credits.
- (3) Sites for forestation using fee-in-lieu money will be sought in the county and watershed in which the original project is located. If this cannot be reasonably achieved, the monies may be used to accomplish forestation anywhere in the county or the state or to buy forest banking credits.

Note: Payment of fee-in-lieu is a last resort and may not be used for mitigation that exceeds $\frac{1}{4}$ acre. After every reasonable effort has been made to minimize the clearing of trees and other woody plants in on-site priority areas listed in § 1-21-40(B), and after every reasonable effort has been made to afforest or reforest priority areas listed in § 1-21-40(C), the following shall be considered the priority sequence for forestation or mitigation off-site:

- (1) Purchase of credits through the Frederick County Forest Banking Program;
- (2) Forestation of hydrologically-sensitive areas, preferably in agriculturally zoned or used land;
- (3) Protection of existing off-site forest at a 1:2.5 ratio, as provided in subsection (G) of this section, in areas closely associated with streams, wetlands, or floodplains, preferably in agriculturally zoned or used land, when such land is not already substantially protected by the Zoning Ordinance or other long-term protective instruments in perpetuity; and
- (4) **Payment into the fee-in-lieu program.**

For additional information:

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