



SUBTITLE 25 VARIANCE APPLICATION INSTRUCTIONS WOOLDAND AND WILDLIFE HABITAT CONSERVATION ORDINANCE (WCO)

Subtitle 25 of the County Code, "Woodland and Wildlife Habitat Conservation Ordinance" was revised through the adoption of CB-27-2010, effective September 1, 2010. Subtitle 25 contains two Divisions that plans must demonstrate conformance with during the land development process. Division 2 contains the Woodland and Wildlife Habitat Conservation Ordinance (WCO) and woodland conservation requirements. This Division also provides for a variance procedure to the requirements if specific findings can be made.

The following text provides guidance with respect to the variance process for Subtitle 25, Division 2, which are not the same as variances to the Zoning Ordinance granted under Subtitle 27, or the waiver process contained within the Tree Canopy Coverage Ordinance (TCC) under Subtitle 25, Division 3.

VARIANCE TYPES PURSUANT TO SUBTITLE 25, DIVISION 2 OF THE WCO

- 1. Variance to Sec. 25-122(b)(1)(G) Removal of specimen, champion or historic trees**
- 2. Variance to Sec. 25-122(b)(1)(H) Removal of rare, threatened or endangered plant material**

Any property subject to the WCO that proposes to remove "certain vegetation" as defined in the state Forest Conservation Act and as listed below is **required** to receive approval of a variance for removal in conjunction with the approval of the associated TCP. This applies to the removal of:

- A. Specimen trees which include any tree 30 inches and greater in diameter at breast height (dbh) or any tree with a dbh equal to or greater than 75% of the current state champion;
- B. Any tree designated as a champion tree;
- C. Trees that are part of a historic site or associated with a historic structure; or
- D. Any tree, shrub or plant identified on the rare, threatened and endangered list provided by the U.S. Fish and Wildlife Service or the Maryland Department of Natural Resources.

- 3. Variances to Subtitle 25, Division 2, other than Section 25-122(b)(1)(G) or (H) (See above)**

Any property subject to the WCO may request a variance from the requirements found in Division 2 as part of the review of a TCP if the required findings of Section 25-119(d) can be made.

THE WCO VARIANCE APPLICATION PROCESS

The Subtitle 25 Variance Application Form is available on-line at <http://www.pgplanning.org/Assets/Planning/Development+Review/Subtitle+25+Variance+Application.pdf>. There is no fee associated with a Subtitle 25 variance application, and there is no notice or informational mailing requirements associated with this variance application.

Only one variance form is required for variances to the Division 2 even if multiple variances are being requested. A single application form can include and address all variances requested to Division 2. An application form should be completed and filed with the Development Review Division (DRD) for a waiver to Division 3 Tree Canopy Coverage (TCC).

A complete **Subtitle 25, Division 2 variance application submittal package** consists of the following:

1. A completed **Subtitle 25, Division 2 Variance Application Form**
2. **A statement of justification** that describes how the required findings are being met
3. Any supporting documentation or exhibits applicable to the variance application.
4. Tree Conservation Plan

The **Statement of Justification** must address each of the required findings of Sec. 25-119(d) listed below:

- (a) Describe the special conditions peculiar to the property which would cause unwarranted hardship;
- (b) Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;
- (c) Describe how granting the variance will not confer on the applicant a special privilege that would be denied to other applicants;
- (d) Describe how the variance is not based on conditions or circumstances which are the result of actions by the applicant;
- e) Verify that the variance does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; and
- (f) Verify that State water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance.

Subtitle 25, Division 2 variance applications that are associated with a Development Review Division (DRD) application are submitted directly to the DRD Applications Section for review with the companion case. Variances are approved by the Planning Board, Zoning Hearing Examiner, and/or District Council for TCPs that are associated with applications heard by them.

Subtitle 25, Division 2 variance applications associated with "stand-alone" TCP2s are submitted directly to the Environmental Planning Section. The Planning Director may approve a Subtitle 25 variance for a "stand-alone" TCP2 or a TCP2 under a Director level review with a DRD application. The Planning Director's decisions are appealable to the Planning Board.

For additional information about Subtitle 25, Division 2 variances, consult the Environmental Technical Manual or contact the Environmental Planning Section at 301-952-3650.