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HOUSE BILL NO. 2238

Offered January 13, 2025

Prefiled January 7, 2025

A BILL to amend and reenact § 15.2-961 of the Code of Virginia, relating to preservation of existing trees during development; certain localities.

Patrons—Martinez and Helmer

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-961 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-961. Replacement of trees during development process in certain localities.

A. Any locality with a population density of at least 75 persons per square mile or any locality within the Chesapeake Bay watershed may adopt an ordinance providing for the planting and replacement of trees during the development process pursuant to the provisions of this section. Population density shall be based upon the latest population estimates of the Cooper Center for Public Service of the University of Virginia.

B. The ordinance shall require that the site plan for any subdivision or development include the planting or replacement of trees on the site to the extent that, at 20 years, minimum tree canopies or covers will be provided in areas to be designated in the ordinance, as follows:

1. Ten percent tree canopy for a site zoned business, commercial, or industrial;
2. Ten percent tree canopy for a residential site zoned 20 or more units per acre;
3. Fifteen percent tree canopy for a residential site zoned more than 10 but less than 20 units per acre; and
4. Twenty percent tree canopy for a residential site zoned 10 units or less per acre.

However, the City of Williamsburg may require at 10 years the minimum tree canopies or covers set out above.

C. The ordinance shall require that the site plan for any subdivision or development include, at 20 years, that a minimum 10 percent tree canopy will be provided on the site of any cemetery as defined in § 54.1-2310, notwithstanding any other provision of this section. In no event shall any local tree replacement or planting ordinance adopted pursuant to this section exceed the requirements of this subsection.

D. The ordinance shall provide for reasonable provisions for reducing the tree canopy requirements or granting tree cover credit in consideration of the preservation of existing tree cover or for preservation of trees of outstanding age, size or physical characteristics.

E. The ordinance shall provide for reasonable exceptions to or deviations from these requirements to allow for the reasonable development of farm land or other areas devoid of healthy or suitable woody materials, for the preservation of wetlands, or otherwise when the strict application of the requirements would result in unnecessary or unreasonable hardship to the developer. In such instances, the ordinance may provide for a tree canopy bank whereby a portion of a development's tree canopy requirement may be met from off-site planting or replacement of trees at the direction of the locality. The following shall be exempt from the requirements of any tree replacement or planting ordinance promulgated under this section: dedicated school sites, playing fields and other nonwooded recreation areas, and other facilities and uses of a similar nature.

F. The ordinance may designate tree species that cannot be planted to meet minimum tree canopy requirements due to tendencies of such species to (i) negatively impact native plant communities, (ii) cause damage to nearby structures and infrastructure, or (iii) possess inherent physiological traits that cause such trees to structurally fail. All trees to be planted shall meet the specifications of the AmericanHort. The planting of trees shall be done in accordance with either the standardized landscape specifications jointly adopted by the Virginia Nursery and Landscape Association, the Virginia Society of Landscape Designers and the Virginia Chapter of the American Society of Landscape Architects, or the road and bridge specifications of the Virginia Department of Transportation.

G. Existing trees ~~which~~ *that* are to be preserved may be included to meet all or part of the *tree* canopy requirements, and may include wooded preserves, if the site plan identifies such trees and the trees meet standards of desirability and life-year expectancy ~~which~~ *that* the locality may establish. *When assessing the adequacy of existing trees that are to be preserved or in assessing the overall impact of the development on existing trees, a locality may, by ordinance, require the developer to (i) submit a survey or map detailing the location of critical root zones on the subject property, including any roots from mature trees that have grown over the subject property line to the abutting property or property adjacent to the subject property, or (ii) provide other information reasonably calculated to assist the locality in determining if such trees meet all or part of the tree canopy requirements.*

H. For purposes of this section:

"Tree canopy" or "tree cover" includes all areas of coverage by plant material exceeding five feet in height, and the extent of planted tree canopy at 10 or 20 years maturity. Planted canopy at 10 or 20 years maturity shall be based on published reference texts generally accepted by landscape architects, nurserymen, and arborists in the community, and the texts shall be specified in the ordinance.

I. Penalties for violations of ordinances adopted pursuant to this section shall be the same as those applicable to violations of zoning ordinances of the locality.

J. In no event shall any local tree replacement or planting ordinance adopted pursuant to this section exceed the requirements set forth herein.

K. Nothing in this section shall invalidate any local ordinance adopted pursuant to the provisions of this section prior to July 1, 1990, which imposes standards for tree replacement or planting during the development process.

L. Nothing in this section shall invalidate any local ordinance adopted by the City of Williamsburg that imposes standards for 10-year-minimum tree cover replacement or planting during the development process.

M. Nothing in this section shall invalidate any local ordinance adopted pursuant to the provisions of this section after July 1, 1990, which imposes standards for 20-year-minimum tree cover replacement or planting during the development process.

N. Nothing in this section shall prohibit or unreasonably limit silvicultural practices in accordance with § 10.1-1126.1.