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HOUSE BILL NO. 549

Offered January 14, 2026

Prefiled January 13, 2026

A BILL to amend and reenact §§ 15.2-961 and 15.2-961.1 of the Code of Virginia, relating to conservation and replacement of trees during development process.

Patron—Hope

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-961 and 15.2-961.1 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-961. Replacement of trees during development process.

A. 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 years maturity. Planted canopy at 10 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.

B. 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. C. The ordinance shall require that the site plan for any subdivision or development include the planting, preservation or replacement of trees on the site to the extent that, at 20 10 years, minimum tree canopies or covers will be provided in areas to be designated in the ordinance, as follows:

samples of covers will be placed 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 *more than 20 or more* units per acre;
3. Fifteen percent tree canopy for a residential site zoned more than ~~40~~ eight but ~~less~~ not more than 20 units per acre; ~~and~~
4. Twenty percent tree canopy for a residential site zoned ~~10 more than four but not more than eight~~ units ~~or less~~ per acre; ~~;~~
5. Twenty-five percent tree canopy for a residential site zoned more than two but not more than four units per acre; or
6. Thirty-five percent tree canopy for a residential site zoned two or fewer units per acre.

3. Thirty-five percent tree canopy for a residential site zoned two or fewer units per acre.
The tree canopy requirements for a mixed-use development shall be either the percentage applicable to the predominant use of the development as clearly delineated on its site plan or general development plan or the average of the percentage applicable to each use of the development, as provided in the ordinance adopted pursuant to this section. For the purposes of this subsection, "predominant use" means the use within the development that constitutes the largest percentage of gross land area or, in the case of a building with mixed uses, the largest percentage of the total floor area.

In meeting these percentages, (i) the ordinance shall first emphasize the preservation of existing tree canopy where that canopy meets local standards for health and structural condition, and where it is feasible to do so within the framework of design standards and densities allowed by the local zoning and other development ordinances and (ii) where it is not feasible in whole or in part to preserve existing canopy in the required percentages listed in this subsection, the ordinance shall second provide for the planting of new trees on the site to meet the required percentages.

For purposes of this subsection, the ordinance shall further require that any residential site plan proposing an increase in the number of units per acre through development or subdivision of existing units shall meet the tree canopy percentage applicable to the site in its pre-development state.

A locality shall consider establishing provisions to assess the health of the trees that are planted and preserved at five and 10 years.

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 locality deems essential for the preservation of existing tree cover or for preservation of trees of outstanding age, size, or physical characteristics.*

59 E. Existing trees which are to be preserved may be included to meet all or part of the canopy
60 requirements, and may include wooded preserves, if the site plan identifies such trees and the trees meet
61 standards of desirability and life-year expectancy, which the locality may establish.

62 F. The ordinance shall provide for reasonable exceptions to or deviations from these requirements to
63 allow for the reasonable development of farm land or other areas devoid of healthy or suitable woody
64 materials, for the preservation of wetlands, or otherwise when the *developer requests, and the locality*
65 *concurs, that the strict application of the requirements would result in unnecessary or unreasonable hardship*
66 *to the developer or prevent the development of uses and densities otherwise allowed by the locality's zoning*
67 *or development ordinance, or would result in severe unintended environmental consequences that outweigh*
68 *the anticipated benefits of tree canopy preservation or restoration.* In such instances, the ordinance may
69 provide for a tree canopy bank or fund, which bank or fund shall be consistent with subdivisions G 1 and G 2
70 of § 15.2-961.1 whereby a portion of a development's tree canopy requirement may be met from off-site
71 planting or replacement of trees at the direction of the locality. The following shall be exempt from the
72 requirements of any tree replacement or planting ordinance promulgated under this section: dedicated school
73 sites, playing fields and other nonwooded recreation areas, and other facilities and uses of a similar nature.

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

82 G. Existing trees which are to be preserved may be included to meet all or part of the canopy
83 requirements, and may include wooded preserves, if the site plan identifies such trees and the trees meet
84 standards of desirability and life-year expectancy which the locality may establish.

85 H. For purposes of this section:

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

90 I. Penalties for violations of ordinances adopted pursuant to this section shall be the same as those
91 applicable to violations of zoning ordinances of the locality. *However, a locality may adopt increased penalty*
92 *amounts not to exceed \$2,500 per violation.*

93 J. In no event shall any local tree replacement or planting ordinance adopted pursuant to this section
94 exceed be less than the requirements set forth herein. Notwithstanding subsection C, localities may establish
95 higher tree canopy replacement percentages, based on density per acre, lot size, or any other measurement
96 relevant to the practices of the locality to achieve MS4 stormwater nutrient reductions, mitigate urban heat
97 islands, increase resilience to climate change, including reducing coastal and inland flooding, and mitigate
98 air pollution.

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

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

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

107 N. K. Nothing in this section shall prohibit or unreasonably limit silvicultural practices in accordance with
108 § 10.1-1126.1.

109 **§ 15.2-961.1. Conservation of trees during land development process.**

110 A. For purposes of this section, "tree canopy" or "tree cover" includes all areas of canopy coverage by
111 self-supporting and healthy woody plant material exceeding five feet in height, and the extent of planted tree
112 canopy at 20 years 10-years maturity.

113 B. Any locality ~~within Planning District 8 that meets the population density criteria of subsection A of~~
114 ~~§ 15.2-961 and is classified as an eight hour nonattainment area for ozone under the federal Clean Air Act~~
115 ~~and Amendments of 1990, in effect as of July 1, 2008, may adopt an ordinance providing for the conservation~~
116 ~~of trees during the land development process pursuant to the provisions of this section. In no event shall any~~
117 ~~local tree conservation ordinance adopted pursuant to this section also impose the tree replacement provisions~~
118 ~~of § 15.2-961.~~

119 C. The ordinance shall require that the site plan for any subdivision or development provide for the
120 preservation or replacement of trees on the development site such that the minimum tree canopy or tree cover

percentage 20 10 years after development is projected to be 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 *more than 20 or more* units per acre;
3. Fifteen percent tree canopy for a residential site zoned more than eight but less than 20 units per acre;
4. Twenty percent tree canopy for a residential site zoned more than four but not more than eight units per acre;
5. Twenty-five percent tree canopy for a residential site zoned more than two but not more than four units per acre; and
6. Thirty-five percent tree canopy for a residential site zoned two or fewer units per acre.

In meeting these percentages, (i) the ordinance shall first emphasize the preservation of existing tree canopy where that canopy meets local standards for health and structural condition, and where it is feasible to do so within the framework of design standards and densities allowed by the local zoning and other development ordinances; and (ii) second, where it is not feasible in whole or in part for any of the justifications listed in subsection E to preserve existing canopy in the required percentages listed above, the ordinance shall provide for the planting of new trees, *or at the locality's discretion, payment into the tree fund* to meet the required percentages.

D. Except as provided in subsection E, the percentage of the site covered by tree canopy at the time of plan submission shall equate to the minimum portion of the requirements identified in subsection C that shall be provided through tree preservation. This portion of the canopy requirements shall be identified as the "tree preservation target" and shall be included in site plan calculations or narratives demonstrating how the overall requirements of subsection C have been met.

E. The ordinance shall provide deviations, in whole or in part, from the tree preservation target defined in subsection D under the following conditions:

1. Meeting the preservation target would prevent the development of uses and densities otherwise allowed by the locality's zoning or development ordinance.
2. The predevelopment condition of vegetation does not meet the locality's standards for health and structural condition.
3. Construction activities could be reasonably expected to impact existing trees to the extent that they would not likely survive in a healthy and structurally sound manner. This includes activities that would cause direct physical damage to the trees, including root systems, or cause environmental changes that could result in or predispose the trees to structural and health problems.

If, in the opinion of the developer, the project cannot meet the tree preservation target due to the conditions described in subdivision 1, 2, or 3, the developer may request a deviation from the preservation requirement in subsection D. In the request for deviation, the developer shall provide a letter to the locality that provides justification for the deviation, describes how the deviation is the minimum necessary to afford relief, and describes how the requirements of subsection C will be met through tree planting or a tree canopy bank or fund established by the locality. Proposed deviations shall be reviewed by the locality's urban forester, arborist, or equivalent in consultation with the locality's land development or licensed professional civil engineering review staff. The locality may propose an alternative site design based upon adopted land development practices and sound vegetation management practices that take into account the relationship between the cost of conservation and the benefits of the trees to be preserved as described in ANSI A300 (Part 5) — 2005 Management: Tree, Shrub, and Other Woody Plant Maintenance — Standard Practices, Management of Trees and Shrubs During Site Planning, Site Development, and Construction, Annex A, A-1.5, Cost Benefits Analysis (or the latest version of this standard). The developer shall consider the alternative and redesign the plan accordingly, or elect to satisfy the unmet portion of the preservation threshold through on-site tree planting or through the off-site planting mechanisms identified in subsection G, so long as the developer provides the locality with an explanation of why the alternative design recommendations were rejected. Letters of explanation from the developer shall be prepared and certified by a licensed professional engineer as defined in § 54.1-400. If arboricultural issues are part of explanation then the letter shall be signed by a Certified Arborist who has taken and passed the certification examination sponsored by the International Society of Arboriculture and who maintains a valid certification status or by a Registered Consulting Arborist as designated by the American Society of Consulting Arborists. If arboricultural issues are the sole subject of the letter of explanation then certification by a licensed professional engineer shall not be required.

F. The ordinance shall provide for deviations of the overall canopy requirements set forth in subsection C to allow for the preservation of wetlands, the development of farm land or other areas previously devoid of healthy and/or suitable tree canopy, or where the *developer requests and the locality concurs that the strict application of the requirements would result in unnecessary or unreasonable hardship to the developer be unreasonable in a specific instance*.

G. The ordinance shall provide for the establishment of a tree canopy bank or fund whereby any portion of the tree canopy requirement that cannot be met on-site may be met through off-site tree preservation or tree planting efforts. Such provisions may be offered where *it can be demonstrated the locality determines* that

183 application of the requirements of subsection C would cause irresolvable conflicts with other local site
184 development requirements, standards, or comprehensive planning goals, where sites or portions of sites lack
185 sufficient space for future tree growth, where planting spaces will not provide adequate space for healthy root
186 development, where trees will cause unavoidable conflicts with underground or overhead utilities, or where it
187 can be demonstrated that trees are likely to cause damage to public infrastructure. The ordinance may utilize
188 any of the following off-site canopy establishment mechanisms:

189 1. A tree canopy bank may be established in order for the locality to facilitate off-site tree preservation,
190 tree planting, stream bank, and riparian restoration projects. Banking efforts shall provide tree canopy that is
191 preserved in perpetuity through conservation easements, deed restrictions, or similar protective mechanisms
192 acceptable to the locality. Projects used in off-site banking will meet the same ordinance standards
193 established for on-site tree canopy; however, the locality may also require the submission of five-year
194 management plans and funds to ensure the execution of maintenance and management obligations identified
195 in those plans. Any such bank shall occur within the same nonattainment area in which the locality approving
196 the tree banking is situated.

197 2. A tree canopy fund may be established to act as a fiscal mechanism to collect, manage, and disburse
198 fees collected from developers that cannot provide full canopy requirements on-site. The locality may use this
199 fund directly to plant and maintain trees on public or private property, or the locality may elect to disburse
200 this fund to community-based organizations exempt from taxation under § 501(c)(3) of the Internal Revenue
201 Code with tree planting, stewardship, or community beautification missions that benefit the community at
202 large. For purposes of establishing consistent and predictable fees, the ordinance shall establish cost units that
203 are based on average costs of two-inch caliper nursery stock trees. Any funds collected by localities for these
204 purposes shall be spent within a five-year period established by the collection date.

205 H. The following uses shall be exempt from the requirements of any ordinance promulgated under this
206 section: bona fide silvicultural activity as defined by § 10.1-1181.1 and the areas of sites included in lakes,
207 ponds, and the normal water elevation area of stormwater retention facilities. The ordinance shall modify the
208 canopy requirements of dedicated school sites, playing fields, and other nonwooded active recreation areas by
209 allowing these and other facilities and uses of a similar nature to provide 10 percent tree canopy 20 years
210 after development.

211 I. 1. In recognition of the added benefits of tree preservation, the ordinance shall provide for ~~an additional~~
212 *a* tree canopy credit of up to one and one-quarter times the canopy area at the time of plan submission for
213 individual trees or the coalesced canopy of forested areas preserved from the predevelopment tree canopy.

214 2. The following additional credits may be provided in the ordinance in connection with tree preservation:

215 a. The ordinance may provide canopy credits of up to (i) one and one-half times the actual canopy area for
216 the preservation of forest communities that achieve environmental, ecological, and wildlife conservation
217 objectives set by the locality and (ii) two times the actual canopy credits if a site developer provides a stand
218 assessment before development plans are created, for review by the local jurisdiction, and protects identified
219 trees for conservation on the submitted site plans. The ordinance may establish minimal area, dimensional
220 and viability standards as prerequisites for the application of credits. Forest communities shall be identified
221 using the nomenclature of either the federal National Vegetation Classification System (FGDC-STD-005, or
222 latest version) or the Natural Communities of Virginia Classification of Ecological Community Groups,
223 Second Approximation (Version 2.2, or latest version).

224 b. The ordinance may provide canopy credits of up to three times the actual canopy area of trees that are
225 officially designated for preservation in conjunction with local tree conservation ordinances based on the
226 authority granted by § 10.1-1127.1.

227 J. The following additional credits shall be provided in the ordinance in connection with tree planting:

228 1. The ordinance shall provide canopy credits of one and one-half the area normally projected for trees
229 planted to absorb or intercept air pollutants, tree species that produce lower levels of reactive volatile organic
230 compounds, or trees that act to reduce air pollution or greenhouse gas emissions by conserving the energy
231 used to cool and heat buildings.

232 2. The ordinance shall provide canopy credits of one and one-quarter the area normally projected for trees
233 planted for water quality-related reforestation or afforestation projects, and for trees planted in low-impact
234 development and bioretention water quality facilities. The low-impact development practices and designs
235 shall conform to local standards in order for these supplemental credits to apply.

236 3. The ordinance shall provide canopy credits of one and one-half the area normally projected for native
237 tree species planted to provide food, nesting, habitat, and migration opportunities for wildlife. These canopy
238 credits may also apply to cultivars of native species if the locality determines that such a cultivar is capable of
239 providing the same type and extent of wildlife benefit as the species it is derived from.

240 4. The ordinance shall provide canopy credits of one and one-half the area normally projected for use of
241 native tree species that are propagated from seed or tissue collected within the mid-Atlantic region.

242 5. The ordinance shall provide canopy credits of one and one-quarter the area normally projected for the
243 use of cultivars or varieties that develop desirable growth and structural patterns, resist decay organisms and
244 the development of cavities, show high levels of resistance to disease or insect infestations, or exhibit high

245 survival rates in harsh urban environments.

246 K. Tree preservation areas and individual trees may not receive more than one application of additional
 247 canopy credits provided in subsection I. Individual trees planted to meet these requirements may not receive
 248 more than two categories of additional canopy credits provided in subsection J. Canopy credits will only be
 249 given to trees with trunks that are fully located on the development site, or in the case of tree banking projects
 250 only to trees with trunks located fully within easements or other areas protected by deed restrictions listed in
 251 subsection G.

252 L. All trees planted for tree cover credits shall meet the specifications of the American Association of
 253 Nurserymen and shall be planted in accordance with the publication entitled "Tree and Shrub Planting
 254 Guidelines," published by the Virginia Cooperative Extension.

255 M. In order to provide higher levels of biodiversity and to minimize the spread of pests and diseases, or to
 256 limit the use of species that cause negative impacts to native plant communities, cause damage to nearby
 257 structures, or possess inherent physiological traits that prone trees to structural failure, the ordinance may
 258 designate species that cannot be used to meet tree canopy requirements or designate species that will only
 259 receive partial 20-year tree canopy credits.

260 N. The locality may allow the use of tree seedlings for meeting tree canopy requirements in large open
 261 spaces, low-density residential settings, or in low-impact development reforestation/afforestation projects. In
 262 these cases, the ordinance shall allow the ground surface area of seedling planting areas to equate to a 20-year
 263 canopy credit area. Tree seedling plantings will be comprised of native species and will be planted in
 264 densities that equate to 400 seedlings per acre, or in densities specified by low-impact development designs
 265 approved by the locality. The locality may set standards for seedling mortality rates and replacement
 266 procedures if unacceptable rates of mortality occur. The locality may elect to allow native woody shrubs or
 267 native woody seed mix to substitute for tree species as long as these treatments do not exceed 33 percent of
 268 the overall seedling planting area. The number of a single species may not exceed 10 percent of the overall
 269 number of trees or shrubs planted to meet the provisions of this subsection.

270 O. The following process shall be used to demonstrate achievement of the required percentage of tree
 271 canopy listed in subsection C:

272 1. The site plan shall graphically delineate the edges of predevelopment tree canopy, the proposed limits
 273 of disturbance on grading or erosion and sedimentation control plans, and the location of tree protective
 274 fencing or other tree protective devices allowed in the Virginia Erosion and Sediment Control Handbook.

275 2. Site plans proposing modification to tree canopy requirements or claiming supplemental tree canopy
 276 credits will require a text narrative.

277 3. The site plan shall include the ~~20-year~~ 10-year tree canopy calculations on a worksheet provided by the
 278 locality.

279 4. Site plans requiring tree planting shall provide a planting schedule that provides botanical and common
 280 names of trees, the number of trees being planted, the total of tree canopy area given to each species, variety
 281 or cultivars planted, total of tree canopy area that will be provided by all trees, planting sizes, and associated
 282 planting specifications. The site plan will also provide a landscape plan that delineates where the trees shall
 283 be planted.

284 P. The ordinance shall provide a list of commercially available tree species, varieties, and cultivars that
 285 are capable of thriving in the locality's climate and ranges of planting environments. The ordinance will also
 286 provide a ~~20-year~~ 10-year tree canopy area credit for each tree. The amount of tree canopy area credited to
 287 individual tree species, varieties, and cultivars ~~20~~ 10 years after they are planted shall be based on references
 288 published or endorsed by Virginia academic institutions such as the Virginia Polytechnic Institute and State
 289 University and accepted by urban foresters, arborists, and horticulturalists as being accurate for the growing
 290 conditions and climate of the locality.

291 Q. The ordinance shall establish standards of health and structural condition of existing trees and
 292 associated plant communities to be preserved. The ordinance may also identify standards for removal of trees
 293 or portions of trees that are dead, dying, or hazardous due to construction impacts. Such removal standards
 294 may allow for the retention of trunk snags where the locality determines that these may provide habitat or
 295 other wildlife benefits and do not represent a hazardous condition. In the event that existing tree canopy
 296 proposed to be preserved for tree canopy credits dies or must be removed because it represents a hazard, the
 297 locality may require the developer to remove the tree, or a portion of the tree and to replace the missing
 298 canopy area by the planting of nursery stock trees, or if a viable alternative, by tree seedlings. Existing trees
 299 that have been granted credits will be replaced with canopy area determined using the same supplemental
 300 credit multipliers as originally granted for that canopy area.

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

303 S. In no event shall any local tree conservation ordinance adopted pursuant to this section ~~exceed~~ be less
 304 than the requirements set forth herein; however, any. Notwithstanding subsection C, localities may establish
 305 higher tree canopy conservation percentages, based on density per acre, lot size, or any other measurement
 306 relevant to the practices of the locality to achieve MS4 stormwater nutrient reductions, mitigate urban heat

307 *islands, increase resilience to climate change, including reducing coastal and inland flooding, and mitigate*
308 *air pollution. Any local ordinance adopted pursuant to the provisions of § 15.2-961 prior to July 1, 1990, may*
309 *adopt the tree conservation provisions of this section based on 10-year minimum tree canopy requirements.*

310 T. Nothing in this section shall invalidate any local ordinance adopted pursuant to § 15.2-961.

311 U. Nothing in this section shall prohibit or unreasonably limit silvicultural practices in accordance with
312 § 10.1-1126.1.