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HOUSE BILL NO. 549
AMENDMENT IN THE NATURE OF A SUBSTITUTE
 (Proposed by the Joint Conference Committee
 on March 14, 2026)

(Patrons Prior to Substitute—Delegates Hope and Seibold [HB 995])

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; work group; report.

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:

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 10 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.

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.

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.

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.

E. Existing trees which are to be preserved may be included to meet all or part of the 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 the locality may establish.

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F. 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 *developer requests, and the locality concurs, that the strict application of the requirements would result in unnecessary or unreasonable hardship to the developer or prevent the development of uses and densities otherwise allowed by the locality's zoning or development ordinance, or would result in severe unintended environmental consequences that outweigh the anticipated benefits of tree canopy preservation or restoration.* In such instances, the ordinance may provide for a tree canopy bank or fund, which bank or fund shall be consistent with subdivisions G 1 and 2 of § 15.2-961.1 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. G.~~ 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 are to be preserved may be included to meet all or part of the 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 the locality may establish.~~

~~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. However, a locality may adopt increased penalty amounts not to exceed \$2,500 per violation.~~

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

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

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

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

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

C. The ordinance shall require that the site plan for any subdivision or development provide for the 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;

122 3. Fifteen percent tree canopy for a residential site zoned more than eight but less than 20 units per acre;
 123 4. Twenty percent tree canopy for a residential site zoned more than four but not more than eight units per
 124 acre;

125 5. Twenty-five percent tree canopy for a residential site zoned more than two but not more than four units
 126 per acre; and

127 6. ~~Thirty~~ *Thirty-five* percent tree canopy for a residential site zoned two or fewer units per acre.

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

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

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

142 1. Meeting the preservation target would prevent the development of uses and densities otherwise allowed
 143 by the locality's zoning or development ordinance.

144 2. The predevelopment condition of vegetation does not meet the locality's standards for health and
 145 structural condition.

146 3. Construction activities could be reasonably expected to impact existing trees to the extent that they
 147 would not likely survive in a healthy and structurally sound manner. This includes activities that would cause
 148 direct physical damage to the trees, including root systems, or cause environmental changes that could result
 149 in or predispose the trees to structural and health problems.

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

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

178 G. The ordinance shall provide for the establishment of a tree canopy bank or fund whereby any portion
 179 of the tree canopy requirement that cannot be met on-site may be met through off-site tree preservation or tree
 180 planting efforts. Such provisions may be offered where ~~it can be demonstrated the locality determines~~ that
 181 application of the requirements of subsection C would cause irresolvable conflicts with other local site
 182 development requirements, standards, or comprehensive planning goals, where sites or portions of sites lack
 183 sufficient space for future tree growth, where planting spaces will not provide adequate space for healthy root

development, where trees will cause unavoidable conflicts with underground or overhead utilities, or where it can be demonstrated that trees are likely to cause damage to public infrastructure. The ordinance may utilize any of the following off-site canopy establishment mechanisms:

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

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

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

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

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

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

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

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

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

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

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

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

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

K. Tree preservation areas and individual trees may not receive more than one application of additional canopy credits provided in subsection I. Individual trees planted to meet these requirements may not receive

more than two categories of additional canopy credits provided in subsection J. Canopy credits will only be given to trees with trunks that are fully located on the development site, or in the case of tree banking projects only to trees with trunks located fully within easements or other areas protected by deed restrictions listed in subsection G.

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

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

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

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

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

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

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

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

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

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

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

S. In no event shall any local tree conservation ordinance adopted pursuant to this section ~~exceed~~ be less than the requirements set forth herein; ~~however, any.~~ *Notwithstanding subsection C, localities may establish higher tree canopy conservation percentages, based on density per acre, lot size, or any other measurement relevant to the practices of the locality to achieve MS4 stormwater nutrient reductions, mitigate urban heat islands, increase resilience to climate change, including reducing coastal and inland flooding, and mitigate air pollution. Any local ordinance adopted pursuant to the provisions of § 15.2-961 prior to July 1, 1990, may adopt the tree conservation provisions of this section based on 10-year minimum tree canopy requirements.*

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

309 U. Nothing in this section shall prohibit or unreasonably limit silvicultural practices in accordance with
310 § 10.1-1126.1.

311 **2. That the Institute for Coastal Adaption and Resilience (the Institute) shall convene a work group to**
312 **conduct a comprehensive review of §§ 15.2-961 and 15.2-961.1 of the Code of Virginia, as amended by**
313 **this act, and § 15.2-961.3 of the Code of Virginia and all applicable state agency regulations and**
314 **guidance memorandums related to the conservation and replacement of tree canopy. The work group**
315 **shall consist of land planners; urban foresters; land use attorneys; engineers; environmental**
316 **consultants; transportation consultants; representatives from the Virginia Association for Commercial**
317 **Real Estate, Virginia Municipal League, Virginia Association of Counties, Home Builders Association**
318 **of Virginia, Chesapeake Bay Foundation, Green Infrastructure Center, Southside ReLeaf, Department**
319 **of Forestry, Virginia Chapter of the American Planning Association, and Virginia Chapter of the**
320 **Urban Land Institute; and any other relevant stakeholders. In conducting its review, the work group**
321 **shall (i) evaluate policies to increase tree canopy in the Commonwealth in a manner that balances state**
322 **and local environmental and economic development objectives; (ii) identify incentives to preserve**
323 **healthy mature trees; (iii) analyze and identify methods in which parity can be created for tree canopy**
324 **requirements across local governments; and (iv) develop recommendations to provide regulatory**
325 **assurance and cost-effective methods for tree canopy conservation and replacement for developers.**
326 **The Institute shall report the findings and recommendations of the work group to the Chairs of the**
327 **House Committee on Counties, Cities and Towns and Senate Committee on Local Government by**
328 **November 1, 2026.**