



Tree Canopy Legislation

Last year, the General Assembly extended to all localities within the Chesapeake Bay watershed the authority to adopt ordinances requiring tree planting or replacement during the development process. That enactment recognized the important role of trees in our neighborhoods. However, it did not go far enough: It continues to tie localities' hands by imposing specific limits on tree canopy requirements, hindering their authority to harness trees to achieve water quality and water quantity goals.

For example, under current law, for a residential parcel zoned for 10 or fewer units per acre, the locality may not require a tree canopy greater than 20% in 20 years' time. For a commercial parcel, the maximum tree canopy a locality can require is 10%.

These limits fail to take into account the important services trees provide in our developed communities. Trees can provide cost-effective assistance in managing polluted runoff and absorbing excess nutrients for localities faced with challenging Chesapeake Bay stormwater goals. Similarly, in coastal and other communities threatened by storm surges and localized flooding, trees are a cost-effective means to increase their resiliency to sea-level rise.

The proposed legislation set out below would allow localities to bypass the current limitations on required planting, replacement, or preservation of trees in the development process to help meet water quality or quantity goals, such as reducing nutrient pollution or assisting in local flood control.

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§ 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.

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J. ~~In no event shall any~~ No local tree replacement or planting ordinance adopted pursuant to this section shall require a developer to plant or replace trees at levels that exceed the requirements set forth herein except that a locality may adopt an ordinance requiring tree preservation, planting or replacement in development or redevelopment to provide for minimum tree canopies that exceed the requirements set forth herein in order to assist in achieving specific water quality or water quantity goals identified in the ordinance that may include, without limitation (i) to assist in achieving the locality's Chesapeake Bay TMDL Watershed Implementation Plan local area planning goals using forested buffers or other urban tree best management practices; (ii) to assist in meeting a locality's MS4 permit Chesapeake Bay Action Plan to reduce nitrogen, phosphorus or sediments by converting impervious or pervious land to forest or adding streamside forested buffers; (iii) to establish or re-establish effective forested buffers in Chesapeake Bay Protection Act Resource Protection Areas; (iv) to assist in meeting water quality design criteria requirements in accordance with § 62.1-44.15:28 of the Code of Virginia or enacted by the locality in accordance with § 62.1-44.15:33 of the Code of Virginia; and (v) to assist in local flood control.