

New Tree Conservation Legislation



Fairfax County Urban Forestry
Management Division

Overview of Legislation

SB 710 and HB1437 add a new section to existing § 15.2-961 to allow jurisdictions located in Planning District 8 that are in non-attainment for 8-hour ozone standards to shift the focus of their local tree canopy ordinance from tree replacement to tree preservation.

- Arlington County
- Fairfax County
- Loudoun County
- Prince William County
- The City of Alexandria
- The City of Fairfax
- The City of Falls Church
- The City of Manassas
- The City of Manassas Park
- Multiple Towns



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Overview of Legislation

Increase Tree Canopy Requirements for Lower Density Residential Uses

- Ten percent tree canopy for a site zoned business, commercial, or industrial;
- Ten percent tree canopy for a residential site zoned 20 or more units per acre;
- Fifteen percent tree canopy for a residential site zoned more than eight but less than 20 units per acre;
- Twenty percent tree canopy for a residential site zoned more than four but not more than eight units per acre;
- Twenty-five percent tree canopy for a residential site zoned more than two but not more than four units per acre; and
- Thirty percent tree canopy for a residential site zoned two or fewer units per acre.

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New “Tree Preservation Target” Feature:

- Allows jurisdictions to require developers to quantify levels of tree preservation on a site-by-site basis.
- Equates to the percentage of the total tree canopy requirement that should be met through the preservation of tree canopy.
- Proportional to the percentage of the site that is covered by tree canopy at the time of plan submission.
- Example: If 35% of a proposed development site is covered with tree canopy, then 35% of its total tree canopy requirement should be met through tree preservation, with the remaining 65% of the requirement met through tree planting.

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Provides for deviations from the Tree preservation Target 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.

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Provides for a tree preservation review and comment process:

- Developer proposes design - may include deviation from target
- Locality may propose alternative design
- Developer may accept or reject alternative design
- Developer has to certify reasons by profession engineer or Certified Arborist or RCA
- Documented on site plan

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Provides incentives for tree preservation:

- 1.25x canopy credit for preserving existing trees
- 1.5x for preservation of forest communities that are determined by locality to be valuable (i.e. National Vegetation Classification System or The Natural Communities of Virginia Classification of Ecological Community Groups)
- Up to 3x for preservation of heritage, specimen, memorial and street trees

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Provides for a tree banking or use of tree fund

- Banking done within conservation easements with escrow and 5-year maintenance plan
- Banking within VA SIP area
- Tree Fund set up to accept funds from developers
- Jurisdiction may use directly or donate to 501.c.3 organization for tree planting in community
- Documented on site plan

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Tree Planting provisions - additional credits for:

- Trees planted for air quality improvement
- Trees planted for energy conservation
- Trees planted to reduce carbon emissions
- Trees planted for wildlife
- Trees planted for water quality
- Native tree species
- Improve cultivars for urban conditions

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Overview of Legislation

Tree Planting provisions - locality may give no credit or limited credit

- for species that have been too widely used – threaten biodiversity
- to minimize the spread of pests and diseases
- for species that cause negative impacts to native plant communities
- for species that cause damage to nearby structures
- for species that possess inherent physiological traits
- for species that prone to structural failure

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Tree Planting provisions - planting and tree canopy credits

- 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.
- The amount of tree canopy area credited to individual tree species, varieties, and cultivars 20 (or 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.

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Tree Planting provisions - use of seedlings, shrubs, and woody seed mix

- For meeting tree canopy requirements in large open spaces, low-density residential settings, or in low-impact development reforestation afforestation projects.
- Surface planting area equates to canopy credit area.
- Comprised of native species
- 400 seedlings per acre, or in densities specified by low-impact development designs approved by the locality

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Other provisions:

- Local ordinances can establish standards of health and structural condition.
- Local ordinance may also identify standards for removal of trees or portions of trees that are dead, dying, or hazardous due to construction impacts.
- 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.

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Next Steps

- Development of local ordinances
- Consistent, unified approach?
- Observation of results
- Closer ties to regional air quality plans
- Tweaking State Enabling language

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Next Steps

Foundation in state code

- Tactically/technically not perfect – but now codified
- Strategically we have establish a foundation for future
- Strategically we have established rapport with legislators and development community
- Room for growth on legislative level
- Societal changes concerning climate change and land use

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