

HOUSE BILL NO. 529

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Counties, Cities and Towns

on \_\_\_\_\_)

(Patron Prior to Substitute--Delegate Hope)

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

**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. 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.

~~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 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;

26 3. Fifteen percent tree canopy for a residential site zoned more than 10 but less than 20 units per  
27 acre; ~~and~~

28 4. Twenty percent tree canopy for a residential site zoned more than five but not more than 10  
29 units ~~or less~~ per acre.

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

32 6. Thirty percent tree canopy for a residential site zoned two or fewer units per acre.

33 For purposes of this subsection, where a locality approves an increase in the number of units per  
34 acre through development or subdivision of existing units through a site plan approval, such site plan  
35 approval may require that the plan meet the tree canopy percentage applicable to the site in its  
36 predevelopment state.

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

39 ~~C.~~D. The ordinance shall require that the site plan for any subdivision or development include, at  
40 20 years, that a minimum 10 percent tree canopy will be provided on the site of any cemetery as defined  
41 in § 54.1-2310, notwithstanding any other provision of this section. In no event shall any local tree  
42 replacement or planting ordinance adopted pursuant to this section exceed the requirements of this  
43 subsection.

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

47 ~~E.~~F. The ordinance shall provide for reasonable exceptions to or deviations from these  
48 requirements to allow for the reasonable development of farm land or other areas devoid of healthy or  
49 suitable woody materials, for the preservation of wetlands, or otherwise when the developer requests and  
50 the locality concurs that strict application of the requirements would result in unnecessary or unreasonable  
51 hardship to the developer or prevent the development of uses and densities otherwise allowed by the  
52 locality's zoning or development ordinance. Such a determination may take into consideration

53 neighborhood environmental and natural resource considerations such as stormwater management and  
54 preservation of trees of outstanding age, size, or physical characteristics. In such instances, the ordinance  
55 may provide for a tree canopy bank or fund, which bank or fund shall be consistent with subdivisions G  
56 1 and 2 of § 15.2-961.1 whereby a portion of a development's tree canopy requirement may be met from  
57 off-site planting or replacement of trees at the direction of the locality. The following shall be exempt  
58 from the requirements of any tree replacement or planting ordinance promulgated under this section:  
59 dedicated school sites, playing fields and other nonwooded recreation areas, and other facilities and uses  
60 of a similar nature.

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

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

72 ~~H. For purposes of this section:~~

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

77 I. The ordinance may permit the locality without entering the property to monitor and assess the  
78 condition and coverage of tree canopies at development sites approved pursuant to the ordinance during  
79 the time period up to 20 years' maturity of the planted trees.

