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SENATE BILL NO. 1013

Offered January 8, 2003

Prefiled January 8, 2003

A BILL to amend and reenact § 15.2-961 of the Code of Virginia, relating to the preservation, planting, and replacement of trees during the development process in certain localities.

Patron—Howell

Referred to Committee on Local Government

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. Any locality with a population density of at least seventy-five persons per square mile 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 twenty 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 twenty or more units per acre;
3. Fifteen percent tree canopy for a residential site zoned more than ten but less than twenty units per acre; and
4. Twenty percent tree canopy for a residential site zoned ten units or less per acre.

However, any city that was established prior to 1780 may require at ten years the minimum tree canopies or covers set out above.

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

D. 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 strict application of the requirements would result in unnecessary or unreasonable hardship to the developer. In such instances, the ordinance may provide for a tree canopy bank 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.

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 canopy at 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.

E. The ordinance may designate or provide a system for rating the desirability for planting of various 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 American Association of Nurserymen. The planting of trees shall be done in accordance with either the standardized landscape specifications jointly adopted by the Virginia Nurserymen's 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.

F. 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.

G. 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 ten or twenty years maturity. Planted canopy at ten or

59 *twenty years maturity shall be based on published reference texts generally accepted by landscape*
60 *architects, nurserymen, and arborists in the community, and the texts shall be specified in the ordinance.*

61 ~~CH.~~ Penalties for violations of ordinances adopted pursuant to this section shall be the same as those
62 applicable to violations of zoning ordinances of the locality.

63 ~~DI.~~ In no event shall any local tree replacement or planting ordinance adopted pursuant to this
64 section exceed the requirements set forth herein.

65 ~~EJ.~~ Nothing in this section shall be construed to invalidate any local ordinance adopted pursuant to
66 the provisions of this section prior to July 1, 1990, which imposes standards for tree replacement or
67 planting during the development process.

68 *K. Nothing in this section shall invalidate any local ordinance adopted by a city that was established*
69 *prior to 1780, which imposes standards for ten-year-minimum tree cover replacement or planting during*
70 *the development process.*

71 *L. Nothing in this section shall invalidate any local ordinance adopted pursuant to the provisions of*
72 *this section after July 1, 1990, which imposes standards for twenty-year-minimum tree cover*
73 *replacement or planting during the development process.*