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HOUSE BILL NO. 221

Offered January 8, 2020

Prefiled December 27, 2019

A BILL to amend and reenact § 10.1-1127.1 of the Code of Virginia, relating to tree conservation ordinance; Chesapeake Bay Preservation Act locality; designated trees.

Patrons—Mugler, Askew, Jenkins, Simonds and Ward

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-1127.1 of the Code of Virginia is amended and reenacted as follows:

§ 10.1-1127.1. Tree conservation ordinance; civil penalties.

A. The governing body of any ~~county, city or town~~ *locality* may adopt a tree conservation ordinance regulating the preservation and removal of heritage, specimen, memorial, *Chesapeake Bay watershed,* and street trees, as defined under subsection B ~~of this section~~, when such preservation and removal are not commercial silvicultural or horticultural activities, including ~~but not limited to~~ planting, managing, or harvesting forest or tree crops. Such ordinance shall consider planned land use by the property owner, may include reasonable fees for the administration and enforcement of the ordinance, and may provide for the appointment by the local governing body of an administrator of the ordinance.

B. Any ordinance enacted pursuant to this ~~authority~~ *section* may contain reasonable provisions for the preservation and removal of heritage, specimen, memorial, *Chesapeake Bay watershed,* and street trees. For the purpose of this section ~~the following definitions shall apply~~:

"Arborist" or "urban forester" means a person trained in arboriculture, forestry, landscape architecture, horticulture, or related fields and experienced in the conservation and preservation of native and ornamental trees.

"Chesapeake Bay watershed tree" means any tree that has been individually designated by the governing body of a locality that is subject to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) to have particular ecological, stormwater, riparian buffer, or tree-canopy significance.

"Heritage tree" means any tree that has been individually designated by the local governing body to have notable historic or cultural interest.

"Memorial tree" means any tree that has been individually designated by the local governing body to be a special commemorating memorial.

"Specimen tree" means any tree that has been individually designated by the local governing body to be notable by virtue of its outstanding size and quality for its particular species.

"Street tree" means any tree that has been individually designated by the local governing body and which grows in the street right-of-way or on private property as authorized by the owner and placed or planted there by the local government.

The designation of such trees shall be by an arborist or urban forester and shall be made by ordinance. The individual property owner of such trees shall be notified prior to the hearing on the adoption of such ordinance by certified mail.

C. The provisions of a tree conservation ordinance enacted pursuant to this section shall not apply: (i) to work conducted on federal or state property; (ii) to emergency work to protect life, limb or property; (iii) to routine installation, maintenance, and repair of cable and wires used to provide cable television, electric, gas, or telephone service; (iv) to activities with minor effects on trees, including ~~but not limited to,~~ home gardening and landscaping of individual homes; and (v) commercial silvicultural or horticultural activities, including ~~but not limited to~~ planting, managing, or harvesting forest or tree crops.

D. In the event that the application of any ordinance regulating the removal of heritage, specimen, memorial, *Chesapeake Bay watershed,* or street trees results in any taking of private property for a public purpose or use, the governing body shall compensate by fee or other consideration the property owner for such taking and the ordinance shall so state, thereby notifying the owner of his right to seek such fee or other compensation. The provisions of Chapter 2 (§ 25.1-200 et seq.) of Title 25.1 shall apply to the taking of private property for a public purpose pursuant to such local ordinance.

E. Violations of such local ordinance shall be punishable by civil penalties not to exceed $2,500 for each violation.

F. Nothing in this section shall be construed to be in derogation of the authority granted to any ~~county, city or town~~ *locality* by the provision of any charter or other provision of law.