

LAND DEVELOPMENT SERVICES
September 26, 2023

STAFF REPORT

- PROPOSED COUNTY CODE AMENDMENT
- PROPOSED PFM AMENDMENT
- PROPOSED ZONING ORDINANCE AMENDMENT
- APPEAL OF DECISION
- WAIVER REQUEST

Proposed Amendment to Chapter 122 (Tree Conservation Ordinance) of *The Code of the County of Fairfax, Virginia* (County Code) Re: Tree Commission Charter

PUBLIC HEARING DATES

Authorization to Advertise: September 26, 2023
Planning Commission Hearing: October 25, 2023 at 7:30 p.m.
Board of Supervisors' Hearing: December 5, 2023 at 3:30 p.m.

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STAFF REPORT

STAFF RECOMMENDATION

Staff recommends that the Board of Supervisors (Board) adopt the proposed amendment to Chapter 122 (Tree Conservation Ordinance) of the County Code as set forth in Attachment A.

DISCUSSION

The Tree Commission was created by action of the Board on June 18, 1973. The charter was last updated on March 23, 2021, when it was relocated from the Zoning Ordinance to the Tree Conservation Ordinance. The only significant change made with that update was to include the Tree Commission's activities related to the Tree Conservation Ordinance. The Tree Commission wishes to expand their charter to include additional activities in furtherance of their basic mission to monitor and advise the Board on ongoing tree conservation activities, promote tree conservation, and assist staff in the development of county requirements for tree preservation and planting. The proposed changes to the charter formalize the Tree Commission's participation in activities related to the Board's Natural Landscaping Policy, the Fairfax County Tree Action Plan, and the Community of Practice, as identified in the Tree Action Plan, that maintains and manages the urban forest. These changes to the charter reflect a continuation of the Tree Commission's involvement in these areas. The Tree Commission played a central role in the development of the original Tree Action Plan in 2006. Tree Commission members also participated in the Interagency Natural Landscaping Committee and the development of the Natural Landscaping element of the Policy Plan volume of the Comprehensive Plan. The proposed changes to the charter would also allow the Tree Commission to review and comment, at its discretion, on select actions being considered by the Planning Commission and other public bodies and agencies that may impact the urban forest. The Tree Commission has done this in the past, on request, and it is not anticipated that this would be a regular occurrence.

On March 21, 2023, the Board directed staff to prepare an amendment to the Tree Conservation Ordinance to revise the Tree Commission charter consistent with a proposal by the Tree Commission. The proposal was supported by the Chair of the Environmental Quality Advisory Council. As directed by the Board, the proposed amendment to the Tree Commission charter includes all the additional elements requested by the Tree Commission and some editorial changes.

PROPOSED AMENDMENT

The proposed amendment to the Tree Commission charter includes the following new elements:

- Advise the Board on actions it might take to protect, improve, and expand the urban forest across Fairfax County.

- Review and comment, at its discretion, on selected actions being considered by the Planning Commission, the Board of Zoning Appeals, the Fairfax County Schools and School Board, the Fairfax County Park Authority and Park Authority Board, and any other County or County-related agencies that may impact the urban forest.
- Report annually to the Board on implementation of the County's Natural Landscaping Policy by county agencies.
- Report annually to the Board on activities of public and private entities to promote tree planting and care on private property.
- Report annually on the results of the Community of Practice as identified in the Fairfax County Tree Action Plan.
- Recommend to the Board improvements to the Fairfax County Tree Action Plan.
- Represent the Board in the Community of Practice established in accordance with the Fairfax County Tree Action Plan.
- Provide outreach on behalf of the Board to private organizations and county citizens regarding the benefits of protecting, improving, and expanding Fairfax County's urban forest.

The proposed amendment also:

- Adds Secretary to the list of officers.
- Codifies the current practice of appointing one member from each magisterial district.
- Eliminates the requirement for citizen members to have some knowledge and experience in the field of arboriculture or related fields. This removes a barrier to broader citizen participation on the commission. There is sufficient technical expertise among the other members of the commission who represent various organizations and agencies (e.g., Virginia Department of Forestry) and staff to assure that recommendations by the commission are representative of best practices.

The proposed amendment is attached to this report.

EQUITY IMPACT

The proposed amendment to the Tree Commission Charter positively impacts equity as follows:

- Expanding the Tree Commission's involvement in the review of county policies and programs related to tree preservation and the urban forest promotes improved environmental quality and quality of life in all our communities, particularly in areas where tree canopy is lacking.
- Eliminating the requirement for citizen members to have "knowledge and experience in the field of arboriculture or related fields" promotes a more inclusive community approach to the tree ordinances, policies, and programs in the County by allowing individuals who are interested in or passionate about

trees and environmental quality, but who don't necessarily have the level of expertise previously required, to be members of the commission.

- Although it is not a change from current practice, it is noted that the codification of the requirement that each magisterial district be represented ensures that outreach, implementation, and activities occur in all areas and that areas of vulnerability, which experience higher levels of asthma and increased heat, can be improved through the ordinances, policies, and programs of the Tree Commission.

The proposed amendment addresses the following three One Fairfax Areas:

- #8. Neighborhoods that support all communities and individuals through strong social networks, trust among neighbors, and the ability to work together to achieve common goals that improve the quality of life for everyone in the neighborhood.
- #11. A quality built and natural environment that accommodates anticipated growth and change in an economically, socially, and environmentally sustainable and equitable manner that includes mixes of land use that protects existing stable neighborhoods and green spaces, supports sustainability, supports a high quality of life, and promotes employment opportunities, housing, amenities, and services for all people.
- #12. A healthy and quality environment to live and work in that acknowledges the need to breathe clean air, to drink clean water now and for future generations.

REGULATORY IMPACT

None

FISCAL IMPACT

None

ATTACHED DOCUMENTS

Attachment A – Amendment to Chapter 122 (Tree Conservation Ordinance)

**Proposed Amendment to
Chapter 122 (Tree Conservation Ordinance) of
The Code of the County of Fairfax, Virginia**

1 Amend Chapter 122, by revising Article 9 (Tree Commission), to read as follows:

2
3 **Article 9. Tree Commission.**

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5 **(a) Purpose.**

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7 The purpose of the Tree Commission is to: ~~provide advice to the Board of Supervisors,~~
8 ~~based on an annual reevaluation of the administration and implementation of the~~
9 ~~provisions set forth in this Ordinance and the landscaping and screening requirements~~
10 ~~contained in the Zoning Ordinance; to provide leadership in developing an understanding~~
11 ~~of the objectives and methods of tree conservation; and to assist the Urban Forest~~
12 ~~Management Division of the Department of Public Works and Environmental Services~~
13 ~~and Land Development Services in the development and maintenance of technical~~
14 ~~specifications and guidelines.~~

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16 1. Advise the Board of Supervisors on actions it might take to protect, improve, and
17 expand the urban forest across Fairfax County.
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19 2. Review and comment, at its discretion, on selected actions being considered by
20 the Planning Commission, the Board of Zoning Appeals, the Fairfax County
21 Schools and School Board, the Fairfax County Park Authority and Park Authority
22 Board, and any other County or County-related agencies that may impact the
23 urban forest.
- 24
25 3. Report annually to the Board of Supervisors on the administration and
26 implementation of ordinances, policies, and programs regarding:
- 27
28 A. Tree preservation and planting requirements of the Fairfax County Code and
29 the Public Facilities Manual.
- 30
31 B. County agencies' design, installation, and maintenance of natural landscapes
32 pursuant to the Board of Supervisors' Natural Landscaping Policy.
- 33
34 C. Activities of public and private entities to promote tree planting and care on
35 private property.
- 36
37 D. Results from the Community of Practice as identified in the Fairfax County
38 Tree Action Plan.
- 39
40 4. Recommend to the Board of Supervisors improvements to the Fairfax County
41 Tree Action Plan as appropriate.
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- 1 5. Represent the Board of Supervisors in the Community of Practice established in
 2 accordance with the Fairfax County Tree Action Plan.
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 4 6. Provide outreach on behalf of the Board of Supervisors to private organizations
 5 and county citizens regarding the benefits of protecting, improving, and
 6 expanding Fairfax County's urban forest.
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8 **(b) Authority and Establishment.**
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- 10 1. The Tree Commission was established ~~in conformance with an action adopted by~~
 11 ~~the Board of Supervisors on June 18, 1973, and amended on July 30, 1973, which~~
 12 ~~action became effective on August 1, 1973.~~
 13
 14 2. The official title of this commission is the 'Fairfax County Tree Commission'.
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16 **(c) Membership.**
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- 18 1. The Board of Supervisors appoints the Tree Commission members. The Tree
 19 Commission may have no more than fifteen (15) members of the following
 20 composition: ten (10) citizens of the County ~~chosen for their knowledge and~~
 21 ~~experience in the field of arboriculture or related fields~~ nominated to represent
 22 each magisterial district and one at-large seat; and one representative from each of
 23 the following: Fairfax County Environmental Quality Advisory Council, Northern
 24 Virginia Soil and Water Conservation District, Fairfax County Park Authority,
 25 Fairfax County Office of Virginia Cooperative Extension, and Virginia
 26 Department of Forestry. Magisterial district representatives will be nominated by
 27 their District Supervisor and must live in the district they represent. The at-large
 28 seat will be nominated by the Chair of the Board of Supervisors and must be a
 29 Fairfax County resident.
 30
 31 2. Citizen members of the Commission are appointed to serve for a three (3) year
 32 term or until their successor has been appointed. An appointed successor to a
 33 vacancy serves only the unexpired portion of the term. Members may be
 34 reappointed to successive terms.
 35
 36 3. If a member is absent for three (3) consecutive meetings without sufficient cause,
 37 a letter will be sent to the Chairman of the Board of Supervisors asking for
 38 replacement of that member.
 39
 40 4. The removal or resignation or withdrawal of any or all members of the Tree
 41 Commission does not result in the dissolution of the Tree Commission.
 42

43 **(d) Officers.**
 44

- 45 1. The Tree Commission must have a Chairperson, ~~and Vice-Chairperson, Secretary,~~
 46 ~~and such other officers that the Tree Commission elects from time to time.~~
 47

- 1 2. Officers of the Tree Commission are to be elected once each year or when an
2 officer withdraws from his post. An annual election meeting will be held as soon
3 as appropriate after regular annual appointments are made.
4
- 5 3. The duties of the officers will be in general those defined in Robert's Rules of
6 Order, modified as required to fit the purpose of the Tree Commission as
7 documented in its Bylaws.
8

9 **(e) Meetings.**

- 10 1. Meetings of the Tree Commission are scheduled by the Chairperson, as needed, or
11 upon the request of three (3) or more members. Meetings are held at a time and
12 place to be designated by the Chairperson.
13
- 14 2. Robert's Rules of Order govern proceedings of the Tree Commission modified as
15 required to fit the purpose of the Tree Commission as documented in its Bylaws.
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17

18 **(f) Records.**

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20 The Tree Commission must keep records of all its proceedings, and the records must be
21 made available for public inspection upon request.
22

23 **(g) Powers and Duties.**

- 24 1. The Tree Commission has the power to do any lawful acts or things reasonably
25 necessary to carry out its purposes.
26
- 27 2. The Tree Commission develops and disseminates ~~technical~~ information for
28 professional groups, developers, and citizens, and strives to inform the general
29 public of the provisions of ~~this Ordinance and the landscaping and screening~~
30 ~~requirements contained in the Zoning Ordinance~~ applicable ordinances, Board
31 policies, and chapters of the Public Facilities Manual.
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33
- 34 3. The Tree Commission assists the ~~Urban Forest Management Division~~ appropriate
35 county agencies in the development and maintenance of ~~the landscaping and~~
36 ~~screening requirements contained in the Zoning Ordinance, and the policies,~~
37 ~~standards and guidelines in the Vegetation Preservation and Planting section of~~
38 ~~the Public Facilities Manual and other related documents, which will provide~~
39 ~~guidance for persons involved in planting, preserving, protecting or replacing~~
40 ~~trees~~ the ordinances, the policies listed in the purpose section of this Article, and
41 related documents which provide guidance for persons involved in planting,
42 preserving, protecting, or replacing trees and other components of healthy forests
43 and natural vegetation.
44
- 45 4. The Tree Commission presents an annual report to the County Executive and
46 Board of Supervisors that includes:
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- A. A description of activities conducted.
- B. A report of ongoing and anticipated activities.
- C. An evaluation of the experience of the administration and implementation of the provisions set forth in ~~this Ordinance and the landscaping and screening requirements contained in the Zoning Ordinance~~ applicable ordinances, Board policies, and chapters of the Public Facilities Manual including: an appraisal of the strength and comprehensiveness of the provisions; recommendations to improve implementation; and judgment as to how it is being interpreted by the public and by those affected by the requirements of these provisions.

- 5. The Tree Commission will be provided working facilities by the County Executive. Where required, the Tree Commission will be provided with assistance from other County agencies.
- 6. The Tree Commission may divide itself into ad hoc committees as the Chairperson may direct or the Tree Commission may resolve, and those ad hoc committees may acquire additional assistance from any sources as required to perform assignments so long as they are consistent with ~~the provisions of this Ordinance and the landscaping and screening requirements contained in the Zoning Ordinance~~ applicable ordinances, Board policies, and chapters of the Public Facilities Manual.
- 7. The Tree Commission may enact bylaws as may be required to aid in its efficient operation.