

Arlington Tree Conservation Requirements At-a-Glance and Opportunities to Improve Protections within Existing Authority

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Arlington County has established tree maintenance, preservation, and replacement standards through a broad array of ordinances, guidelines, and master plans. The following listing provides brief descriptions of those standards and identifies (in **red**) opportunities for actions that can be taken to improve tree conservation policies, procedures, and programs without seeking legislative authorization from the Virginia General Assembly and Governor.

Arlington Ordinances

Chesapeake Bay Preservation Ordinance of Arlington (Chapter 61) *(adopted 2/8/2003)*

- Overall purpose is to protect Arlington waters and adjacent lands and thereby reduce pollutant impacts on the Chesapeake Bay (61-2); the ordinance is administered by DES (61-4).

Opportunity: Bring DPR into the decision process.

- 61-5 defines Resource Protection Areas (with protection buffers “not less than 100 feet” adjacent to flowing waters and wetlands) and Resource Management Areas (all other county lands); the county may expand RPAs and/or designate “Intensely Developed Areas” as defined in 61-5D; designated IDAs must still meet the general performance standards of 61-10.

Opportunity: Expand Arlington RPAs to include upstream storm sewer feeder systems.

- 61-7 defines allowable development, modifications, and encroachments in RPAs (only), including flood control and stormwater management “facilities” and tree management; tree and vegetation management require the use of best management practices (BMPs) and DES Director approval;

Opportunities: (1) Amend to require DPR Director approval for tree management decisions; (2) enforce tree loss limitation requirements of 61-7B (2) and (3), e.g., during stream restoration projects.

- 61-10 sets standards for site development:
 - Sections A and B set tree preservation and restoration requirements for RPAs and RMAs (i.e., for the entire county); land disturbance “shall” be limited to the “construction footprint” (defined as impervious surfaces and construction needs); trees (including tree root zones of adjacent property trees) “shall” be preserved to the “maximum extent practicable”; DES Director is the decision maker.

Opportunities: (1) Provide the DPR Director with concurrence authority; (2) enforce land disturbance and tree preservation requirements to define a smaller “construction footprint” than current clear-cutting and excavation of the entire site.

- Section C defines mandatory minimum tree canopy replacement or retention requirements based on lot size, usage, and density at maturity of 20 years.

Opportunity: Revise the ordinance to adopt the higher Virginia Code Sec. 961.1 tree preservation and restoration standards (based on Arlington population density and ozone non-attainment).

- Section D requires that impervious cover be minimized.
- Section F requires that land disturbance over 2500sf comply with erosion and sediment ordinances.

Opportunities: (1) Enforce these requirements more stringently; revise the CBP ordinance to create a tree canopy “bank” per Virginia Code Sec. 961.1; (2) create an ongoing program for DPR and county volunteers (e.g., Tree Stewards and ARMNs) to assess tree canopy progress, maintain a database of tree canopy status, and consult with homeowners about maintenance and options.

- 61-12 requires Water Quality Impact Assessments (WQIAs) for land disturbance/development within RPAs, with the option to extend to RMAs (i.e., the rest of the county), subject to DES Director approval; WQIAs must assess tree impacts a BMP mitigation measures; WQIAs are reviewed by the Chesapeake Bay Ordinance Review Committee (CBORC) or the DES Director (see 61-16).
- 61-13 requires a Development Plan and Landscape Conservation Plan for land disturbance > 2500 sf (whether RPA or not); landscape plans must include tree and critical root zone disturbance, plus tree replacement specifications; all plans must include a maintenance agreement to ensure BMPs are followed; no certificate of occupancy until all BMP elements are installed; DES Director decides.

Opportunities: (1) Apply standards exactly as defined in the ordinance (e.g., for residential homes and EHO structures with planned land disturbance > 2500 sf); (2) proactively require tree preservation as a stormwater and water quality BMP in RPAs and RMAs (i.e., county-wide); (3) revise the CBP ordinance to create tree bank incentives for developers to conserve mature trees and meet or exceed tree canopy goals as part of their site design process.

- 61-16 defines the CBORC role to review allowable development and modifications within RPAs (as defined in Sec. 61-7); the DES Director reviews other exception requests (e.g., for non-conforming structures).

Opportunity: Defer to CBORC jurisdiction as defined in the ordinance and revitalize its defined role; empower DPR to play a consultative role in CBPO-related approvals.

- 61-18 sets forth penalties, which may include restoration of CBP areas and civil charges up to \$10K/violation or up to \$5K/day.

Opportunities: (1) Apply penalties for all violations as defined in the CBP ordinance; (2) withhold approvals and certificates of occupancy until landscape compliance and use of BMPs is confirmed.

Trees and Shrubs Ordinance (Chapter 67) aka Tree Preservation Ordinance *(adopted 11/16/2002)*

- 67-4 governs trees on public property; requires compliance with county Tree Guidelines; requires County Manager approval to remove trees; prohibits removal unless deemed “necessary or desirable” and is not contrary to existing County policy, plan, or ordinance regarding trees.

Opportunity: Preemptively contest certain tree removals when deemed contrary to the FNRP.

- 67-6 authorizes designation by the Urban Forester of “heritage, memorial, specimen, or street trees” on public or private property; requires County Board approval; citizens may nominate trees for designation on public lands, but only single-family dwelling property owners can nominate trees on their own property.

Opportunities: (1) Undertake a systematic process to identify prime candidate trees for designation on public and private properties, with assistance from voluntary tree groups; (2) develop a public outreach strategy that makes the strongest cost-benefit case for tree maintenance and preservation on private property, tailored to different neighborhood priorities and needs; (3) explore ordinance revisions to provide real estate tax benefits for preservation; (4) explore a public hearing option to contest homeowner veto of designation on their private property. [Note: a neighborhood appeal option once existed in Arlington.]

- 67-7 prohibits removal a designated tree unless the County Board certifies need or the County Manager certifies tree death, disease, or public hazard.
- 67-8 sets the maximum civil penalty for violation at \$2500. *Note, Virginia Code Sec. 15-2.961 limits Arlington’s penalty authority to what is defined in its Zoning Ordinance (see below).*

Opportunity: Amend the ordinance to increase the civil penalty to the County zoning cap of \$5000 for each violation (i.e., for each notable tree) to make it a true deterrent.

Floodplain Management (Chapter 48) *(updated 10/2023)*

- Limited application to tree canopy protection except in RPAs along stream corridors like Four Mile Run, Donaldson Run, and Gulf Branch.

Opportunity: Tie RPA objectives to stormwater and flood plain management more explicitly; demonstrate the cost-effectiveness of green infrastructure approaches in Arlington.

Erosion and Sediment Control (Chapter 57) *(adopted 1/26/2008)*

- Requires erosion and sediment control plans and permits for “land disturbing activities” greater than 2500sf; requires compliance with Virginia Erosion and Sediment Control Handbook to achieve resource conservation goals; requirements includes site preparation; residential development may allow control agreements instead of formal plans.

Opportunity: Require developers to utilize tree preservation as an erosion and stormwater BMP for purposes of granting a construction permit and require justification if this is not done.

Stormwater Management (Chapter 60) (adopted 5/10/2014) – See *Stormwater Manual*, below.

- Requires Virginia Stormwater Management Program permits for land disturbance activities over 2500sf of land area; permits require plans for tree preservation, erosion control, stormwater management, and pollution prevention.
- Requirements for land disturbing activities are set forth in the county’s ***Stormwater Manual*** (April 2023, see listing below), incorporated by reference into Chapter 60:
 - A detailed Land Conservation Plan is required for any disturbance > 2500sf (not just in RPAs) with approval by the Urban Forester.
 - CBPO requirements for minimal land disturbance, maximum tree conservation, and RPA protections *must* be addressed in the plan; the manual has extensive, mandatory standards for tree conservation, protection, and planting, subject to Urban Forester approval.
 - The CBO Review Committee (CBORC) “must” review in a public hearing most requests for exceptions to RPA requirements, with very limited exceptions for a DES Director decision.
 - The manual sets forth detailed standards for RPA buffer maintenance (e.g., invasives management, tree removal) and enhancement (plantings).

Opportunities: (1) Review Land Conservation Plans more stringently in keeping with their stated intent; (2) emphasize that tree conservation is the preferred stormwater BMP (and revise the manual as necessary to require this), withholding permit approval if plans call for clear-cut lots when tree preservation is possible; (3) utilize the CBORC as mandated in the manual.

Zoning Ordinance (effective 5/21/2024)

- Article 3 covers density and dimensional requirements, including building footprint and height; section 3.2 sets forth specific bulk, coverage, and placement requirements.
- Article 14 governs site development standards, including maintenance of common areas (14.1) and landscaping (14.2); landscaping provision applies to site development where landscaping is required (i.e., not residential); mandatory standards include ongoing maintenance requirements.
- Section 15-2.2 requires Certificate of Occupancy for buildings and “site work”, including residential dwellings.
- Tree canopy requirements of the Arlington CBPO (Chapter 61) are subject to the enforcement provisions of the Zoning Ordinance.
- Section 17 defines enforcement and penalty provisions, including a \$5000 civil cap for each violation (which could be interpreted to mean each mature tree).

Opportunities: (1) Start work on the lot coverage study now and ensure that the county standards will meet green infrastructure stormwater goals (see Chapter 60); (2) use the Master Certificate of Occupancy process to ensure that all required landscaping (i.e., site work) is 100% consistent with the county's standards, in consultation with DPR; (3) enforce the Article 14.2 maintenance requirement; (4) establish a full disclosure system to track and certify that developers seeking to build in Arlington are fully transparent and compliant with all applicable tree conservation and replacement requirements.

Arlington Non-Ordinance Standards

Local Historic Districts

- Trees greater than 15" in diameter in historic districts require a permit for removal.

Opportunity: FNRC proactively engages with the Arlington Historical Review Board to ensure heightened awareness of the importance of notable tree preservation and involvement in the identification process.

Tree Planting on Public Lands (Admin Reg 4.3, 7/31/18)

- Specifications and guidelines for siting and planting trees on public lands (e.g., street trees, open space and parks); administered by DPR; includes maintenance requirements that apply to county staff and private maintenance providers.

Opportunity: Foster closer county collaboration with Arlington Public Schools to enable their implementation of county tree standards (ANSI A300 Tree Care Standards) currently applied to other public lands, and to facilitate more effective tree planting and maintenance.

Standard Site Plan Conditions for High Density Office, Residential and/or Mixed Use Developments

(8/2/22)

- Includes tree conservation and replacement requirements to obtain demolition and land disturbing activity permits; requires tree survey and protection plan, "consistent" with the requirements of the CBPO (Chapter 61).

Opportunity: Apply the CBPO standards more rigorously to promote tree preservation as a BMP for site development and stormwater management, including on EHO sites.

Reference Manuals and Guides

Arlington County Landscape Standards Reference Guide (12/2017, new edition due in 2024)

- Establishes "minimum standards and requirements for landscape plans, installation, and maintenance" to "supplement other applicable ordinances and regulations;" applicable to all projects requiring county approval via site-plan, use-permit, form-based code, or by-right zoning; "preservation and improvement" of open space and tree canopy are top priorities.

Opportunities: (1) Ensure the new edition is 100% consistent with ANSI A300 standards and ISA BMPs for Managing Trees During Site Development and Construction (2023); (2) require enforceable developer certification that BMPs are met before county approval is issued; (3) establish a developer and crew training program in English and Spanish that is mandatory for all builders doing business in Arlington; (4) publicize these standards broadly to all citizens.

Arlington County Tree Conservation Guide (Date?)

- Provides non-mandatory guidelines for “maximizing . . . responsible tree conservation;” the paper includes a visual guide with pictures of tree protection, planting, and soil remediation.

Opportunities: Same as for the Landscape Standards Guide; also, integrate the two overlapping guides from CPHD and DPR to provide a single reference tool that is shows the county speaking with one voice (and thereby reduces organization “silos”).

Stormwater Guidance Manual (4/2023) – See Stormwater Management, Chapter 60, above.

- Extensive manual incorporated by reference into the Stormwater Management Ordinance (Chapter 60, above); provisions include extensive requirements for land conservation, tree protection, and tree planting/landscaping: Landscape conservation plans require Urban Forester approval.

Opportunities: (1) Review Land Conservation Plans more stringently in keeping with their stated intent; (2) emphasize that tree conservation is the preferred stormwater BMP (and revise the manual as necessary to require this), withholding permit approval if plans call for clear-cut lots when tree preservation is possible; (3) utilize the CBORC as mandated in the manual.

Other Arlington Master Plan Documents

Forestry and Natural Resources Plan (12/16/23) – A priority element of the Comprehensive Plan; the FNRP defines aspirational goals for Arlington’s tree canopy and green spaces *and* identifies many specific actions that the county pledges to take to achieve those goals.

Opportunity: As a first step of FNRP implementation, identify all of the priority actions in the FNRP that the county can address immediately with existing resources and regulatory authority.

Chesapeake Bay Preservation Plan (10/2022) – Highlights tree conservation, green infrastructure, reduced impervious surfaces as priorities to achieve CBP goals.

Public Spaces Master Plan (4/25/19) – Highlights tree conservation, land acquisition, waterway access and enhancement, open spaces in transport corridors as priority actions.

Stormwater Master Plan (9/2014) – Highlights climate, flooding, stream degradation trends; includes green infrastructure, tree canopy, and stream restoration as priorities.

Opportunity: Integrate tree and natural resource priorities across related master plans; use this to profoundly influence public perceptions and drive county policy and program actions.

State Standards

Virginia Code Article 2.5 -- Chesapeake Bay Preservation Act – Requires local ordinances to set up RPAs and enforce clean water standards; extensive local authority to “protect the quality of state waters” from excessive runoff caused by loss of trees in urban forests; includes broad enforcement and penalty authority for local ordinance violations (up to \$5000/day and \$10,000/violation, greater than current Arlington zoning limits).

Opportunity: Assess how these provisions can be more expansively applied to Arlington RPAs and RMAs through ordinance changes and/or more expansive application of Arlington’s current obligation to conserve mature trees to reduce runoff and “protect” state waters.

Virginia Code Sec. 15-2.961 and 961.1 – Tree Replacement and Conservation -- Authorizes localities to create ordinances with tree preservation and replacement standards. *[Arlington has adopted the minimum canopy requirements of Sec. 961 in its CBPO Chapter 61-10; the county is authorized to adopt Sec. 961.1 standards if it chooses to do so.]*

Opportunity: Replace the current CBPO by adopting Sec. 15.2-961.1, with an emphasis on tree conservation as Arlington’s standard. [Note: this is allowable without further state authorization based on the county’s population and ozone non-attainment status.]

Virginia Code Sec. 9VAC25-830-155 -- Climate change resilience and adaptation criteria – Requires local assessment of climate change impacts and adaptation measures within RPAs; requires local adoption of nature-based solutions (specifically defined in the statute) within RPAs.

Opportunity: Utilize conservation of existing tree canopy more proactively as a required “nature-based adaptation measure” during residential and commercial site development to mitigate the climate change impacts of impervious surfaces and stormwater runoff.