

**DRAFT:  
8/15/2023**

[Section 18 of the Code of the Town of Vienna is amended as follows:]

Sect. 18-409 (Single-Unit Detached Residential Uses) - RS-10 - **20 percent**, RS-12.5, or RS-16 Zones - **25 percent**

Sect. 18-462 (Multi-Unit Attached Residential Uses) - 15 percent

Sect. 18-510 (Commercial, Industrial and Mixed Uses) - 20 percent, RMU - 15 percent; Avenue Center (AC), Avenue East (AE), Avenue West (AW), Gateway South (GS), Mill (M), and Corporate Park (CP) Districts, Transitional (T) and Neighborhood Mixed-Use (NM) Zones - 10 percent

Sect. 18-559 (Public, Institutional, and Community Uses; Residential Single-Unit Detached Zones RS-10 - **20 percent**, RS-12.5, RS-16 - **25 percent**, RMU -15 percent; Avenue Center (AC), Avenue East (AE), Avenue West (AW), Gateway South (GS), Mill (M), and Corporate Park (CP) Districts, Transitional (T) and Neighborhood Mixed-Use (NM) Zones - 10 percent

[The following Chapter is added to the Code of the Town of Vienna:]

## **CHAPTER 29 - TREE CONSERVATION**

### **ARTICLE 1. GENERAL PROVISIONS**

#### **Sec. 29-1-1. Title.**

This chapter shall be known as the “Vienna Tree Conservation Ordinance.”

#### **Sec. 29-1-2. Authority.**

This chapter is enacted pursuant to the authority of Va. Code Ann. §§ 10.1-1127.1, 15.2-961, and 15.2-961.1.

#### **Sec. 29-1-3. Enactment.**

This chapter shall be effective at 12:01 a.m. on January 1, 2024.

#### **Sec. 29-1-4. Areas of Applicability.**

This chapter and all regulations adopted hereunder shall apply to all land located within the Town of Vienna.

#### **Sec. 29-1-5. Purpose and intent.**

The purpose and intent of this chapter is to provide for the conservation and management of Town trees, and to provide for the conservation of trees during the land development process. The conservation (i.e., preservation and planting) of trees will protect, sustain, and enhance the Town’s urban forest resources. These forest resources provide important aesthetic, social, and economic benefits and are indispensable to the conservation and management of vital atmospheric, water, soil, and ecological resources.

#### **Sec. 29-1-6. Administration.**

The Director of Parks and Recreation or his designee shall be responsible for the administration and enforcement of this chapter.

#### **Sec. 29-1-7. Severability.**

If any of the articles, sections, paragraphs, sentences, clauses, or phrases of this chapter shall be declared unconstitutional or invalid by a valid judgment or decree of a court of competent jurisdiction, such

unconstitutionality or invalidity shall not affect the validity of this chapter in its entirety or any of the remaining articles, sections, paragraphs, sentences, clauses, and phrases herein.

## **ARTICLE 2. DEFINITIONS**

### **Sec. 29-2-1. Definitions**

- (a) *Clearing* means removing or causing to be removed the vegetation growing in the soil which protects and stabilizes the soil. Such removing or causing to be removed shall include any intentional or negligent act to (1) cut down, (2) remove all or a substantial part of, or (3) damage a tree or other vegetation which will cause the tree or other vegetation to decline and/or die. Such acts shall include but not be limited to damage inflicted upon the root system of the vegetation by the application of toxic substances, by the operation of equipment and vehicles, by storage of materials, or by the damage of natural grade due to unapproved excavation or filling, or damage caused by the unapproved alteration of natural physical conditions.
- (b) *Critical root zone* means the minimal surface area and associated underground root system and soil that must remain undisturbed in order for a tree to survive significant soil disturbing activities such as compaction, cutting, grading, or filling that will occur in close proximity to the tree. The Critical root zone is defined by a circle whose radius starts at the center of the tree's trunk and terminates in any direction at the outer boundary of the area that must be left undisturbed in order to ensure tree survival.
- (c) *Forested area* means areas comprised of self-supporting tree and woody plants that exceed five feet in height at time of plan submission and meet criteria for health, condition and suitability as further defined in this section. Areas that meet the administrative definition provided above usually represent native forest or woodland plant communities that occur in a range of successional stages from rapidly changing early successional pioneer woodlands (often described as “scrub”) to stable long-term sub-climax and climax forests. During mid to late successional stages, these plant communities typically consist of multiple layers of vegetation and other natural features including: super- and sub-canopy tree species; woody shrubs, herbaceous plants, vines, non-vascular plants and epiphytes; decaying leaf litter, root mass, fungi, soil biota; and abiotic components which the vegetation is dependent upon such as: soils, hydrologic conditions, and underlying geomorphic features.
- (d) *Tree* means any self-supporting woody plant which visually produces one main trunk and a more or less distinct and elevated head with many branches that typically reach at least 15 feet in height at maturity, and for purposes related to 20-year tree canopy requirements exceeds five feet in height at time of plan submission.
- (e) *Tree canopy* includes all areas of coverage by plant material exceeding five feet in height, and the extent of planted tree canopy at 20 years maturity. Planted canopy at 20 years maturity shall be based on published reference texts generally accepted by landscape architects, nurserymen, and arborist in the community.
- (f) *Tree conservation*, as applied to trees and forested areas, incorporates both tree preservation and tree planting efforts.

## **ARTICLE 3. TREE CONSERVATION DURING LAND DEVELOPMENT**

### **Sec. 29-3-1. Tree Canopy Requirements.**

- (a) All land development requiring the submission of a site plan, preliminary subdivision plat, subdivision plan, conservation plan, grading plan, or a rough grading plan, shall provide for the conservation of trees on the site such that, after twenty (20) years, minimum tree canopy is projected to be as follows:

**Table 1 - Tree Canopy Requirements as applied to Town of Vienna Zoning Districts**

Use or Zoning District	Percentage of Site to be Covered by Tree Canopy in 20 Years
RS-16 - Single Family Detached Residential	Twenty five percent (25%)
RS-12.5 - Single Family Detached Residential	Twenty five percent (25%)
RS-10 - Single Family Detached Residential	Twenty percent (20%)
RMU - Residential Multi-Unit Zone	Fifteen percent (15%)
AC - Avenue Center, AE - Avenue East, AW - Avenue West, GS - Gateway South, M - Mill, CP - Corporate Park Districts, T - Transitional, and NM - Neighborhood Mixed-Use Zones	Ten percent (10%)

- (b) For purposes of administering the above requirement, land development does not include: construction of additions to existing residential structures; construction of residential accessory structures; demolition of existing residential structures; reconstruction of residential structures on existing foundations; construction associated with minor site plans; construction of trails, sidewalks, sanitary sewers, storm sewers, and other public improvements of a linear nature not included as part of a larger common plan of development; and, other land disturbing activities that present a minor threat to existing tree resources as determined by the Director of Parks and Recreation.

**Sec. 29-3-2. Standards for Tree Canopy Requirements.**

- (a) The tree canopy requirements set forth in Table 1 above may be met through the preservation or planting of trees. However, when existing trees meet standards of health, condition, and suitability, and when it is feasible to preserve those trees within the framework of permissible uses, densities, design standards, and construction practices, all efforts shall first be made to meet the tree canopy requirement through the preservation of trees before tree planting is allowed to meet any portion of the tree canopy requirement.
- (b) Tree canopy credit shall be given to existing areas of trees and forested areas designated to be preserved on plans and comprised of self-supporting and woody plant material exceeding five feet in height at time of plan submission provided that the trees and forested areas meet standards for health, condition, and suitability.
- (c) Any portion of the tree canopy requirement that cannot first be met through the preservation of trees as provided for in § 29-3-3 shall be provided through tree planting.
- (d) Tree canopy credits for trees and plant material used to satisfy 20-year tree canopy requirements shall be determined in accordance with the provisions of Vienna’s Tree Preservation and Planting Guide.

**Sec. 29-3-3. Tree Preservation Requirements.**

- (a) Except as provided for in § 29-3-3(b), the percentage of the development site covered by tree canopy at the time of plan submission shall equate to the minimum portion of the total 20-year tree canopy requirement of § 29-3-2(a) that should be met by means of tree preservation. This minimum portion shall be identified in plats and plans as the “tree preservation target.”

- (b) Deviations, in whole or part, from the tree preservation target may be requested under the following conditions:
  - 1. Meeting the tree preservation target would prevent the development of uses or densities otherwise allowed by the Town Zoning Ordinance.
  - 2. Meeting the tree preservation target would require the preservation of trees and forested areas that do not meet standards for health, structural condition, and other vegetation and risk management requirements.
  - 3. Construction activities could be reasonably expected to impact existing trees or forested areas used to meet the tree preservation target to the extent they would not likely survive in a healthy and structurally sound manner for a minimum of twenty (20) years in accordance with the post-development standards for trees and forested areas.
- (c) Deviations from the Tree Preservation Target shall be granted for any of the justifications listed above provided that a written request is submitted and approved by the Director of Parks and Recreation. The request must take the form of a letter addressed to the Director of Parks and Recreation that provides a site-specific narrative explaining why one or more of the conditions allowing a deviation set forth in (b) above should be considered. The narrative must also provide the basis for the deviation, a detailed description of how the deviation is the minimum necessary to afford relief and describe how the balance of the 20-year tree canopy requirements could otherwise be met by means of tree planting.
- (d) The Director of Parks and Recreation may grant additional canopy credits in order to encourage the preservation of forest communities that provide valuable environmental, ecological, and wildlife conservation benefits.
- (e) All tree and forested areas designated to be preserved on plans shall be protected and managed during all phases of construction.

**Sec. 29-3-4. Tree Planting Requirements.**

- (a) Tree canopy credit shall be given to areas of planted tree canopy based on the projected 20-year tree canopy calculation as set forth in the Vienna's Tree Preservation and Planting Guide, provided that the proposed tree species meets standards established to manage proper levels of biodiversity and the spread of invasive plants, pests, and diseases.
- (b) Tree canopy credits shall be given to tree seedlings, shrubs and woody seed mix planted in large open spaces, low-density residential settings, or in low-impact development projects.
- (c) Additional tree canopy credits shall be granted for the planting of trees that will provide air quality, energy conservation, water quality, wildlife conservation benefits.
- (d) Additional tree canopy credits shall be granted for the use of native tree species, and the use of cultivars or varieties that develop desirable growth and structural patterns, resist decay organisms and the development of cavities, show high levels of resistance to disease or insect infestations, and exhibit high survival rates in harsh urban environments.
- (e) In order to provide higher levels of biodiversity and to minimize the spread of pests and diseases, or to limit the use of species that cause negative impacts to native plant communities, cause damage to nearby structures, or possess inherent physiological traits that prone trees to structural failure, Vienna's Tree Preservation and Planting Guide may designate trees that cannot be planted to meet tree canopy requirements or that shall only receive partial tree canopy credits.
- (f) All plant materials used to satisfy 20-year tree canopy requirements shall be selected, located, handled and installed in accordance with the Vienna's Tree Preservation and Planting Guide.

**Sec. 29-3-5. Use of Tree Preservation and Planting Fund if Tree Canopy Requirement Cannot be Met On-Site.**

- (a) Where it can be demonstrated to the satisfaction of the Director of Parks and Recreation that the tree canopy requirements set forth in § 29-3-1 cannot be met on-site, the portion of the requirement that cannot be met on-site may be met through a pro rata payment into a Tree Preservation and Planting Fund.
- (b) If it is demonstrated to the satisfaction of the Director of Parks and Recreation that the tree canopy requirements set forth in § 29-3-1 cannot be met on-site, the Director of Parks and Recreation may allow developers to contribute a pro-rated fee into Vienna’s Tree Preservation and Planting Fund. The Town may use this fund directly to preserve or plant trees on public property or may elect to disburse these funds to community-based organizations exempt from taxation under § 501(c)(3) of the Internal Revenue Code with tree planting or community beautification missions for the purpose of implementing tree planting projects or programs that benefit the community at large.
  - 1. Fees collected for these purposes will be based on the cost to establish 20-year Tree Canopy Cover using 2-inch caliper nursery stock tree.
  - 2. The cost to establish 200 square feet of 20-year Tree Canopy using 2-inch caliper landscape tree will be set at the unit cost for a 1.5-2.0-inch caliper deciduous tree as stated in the current Fairfax County Land Development Services’ Comprehensive Unit Price Schedule.
  - 3. Any funds collected by the Town for these purposes shall be spent within a five-year period established by the collection date, or the Town shall return such funds to the original contributor, or legal successor.

**Sec. 29-3-6. Exemptions and Modifications.**

- (a) The following uses are exempt from the requirements of this chapter: bona fide silvicultural activity as defined by Va. Code Ann. § 10.1-1181.1 and the areas of sites included in lakes, ponds, and the normal water elevation area of stormwater retention facilities.
- (b) Deviations of the overall canopy requirements set forth in § 29-4-1 may be granted by the Director of Parks and Recreation to allow for the preservation of wetlands, the development of farm land or other areas previously devoid of healthy and/or suitable tree canopy, or where the strict application of the requirements would result in unnecessary or unreasonable hardship to the developer.

**ARTICLE 4. TREE CONSERVATION PLANS**

**Sec. 29-4-1. Submission and Review of Tree Conservation Plans.**

- (a) Applicability.
  - 1. Tree conservation plans must be submitted for review and approval by the Director of Parks and Recreation as provided in this chapter. Tree conservation plans are required for any of the following located in the RS-16, RS-12.5, RS-10, RMU, AC, AE, AW, GS, M, CP, T, and NM zones: the development of an undeveloped tract; the redevelopment of any existing tract by removal of a dwelling and replacement with a new dwelling; or the addition to an existing dwelling that results in an area of disturbed soil exceeding 2,500 square feet.
  - 2. Tree conservation plans must be submitted for review and approval by the Director of Parks and Recreation as part of all preliminary subdivision plats, construction plans, and grading plans as required by this Code, and to the extent applicable, the Fairfax County Code.
  - 3. A site plan, preliminary subdivision plat, subdivision construction plan, conservation plan, grading plan, or rough grading plan approved by the Director of Parks and Recreation and meeting the requirements contained herein shall constitute an approved tree conservation plan. Tree conservation plans and associated plans, narratives, calculations, deviations and

modifications shall be prepared in accordance with Vienna's Tree Preservation and Planting Guide.

4. If a tree conservation plan proposes tree removal of off-site or jointly-owned trees because they have critical root zones that extend into the project site and will be encroached on by construction activities causing irreparable damage, a written notice must be sent to the affected adjacent landowner(s) notifying them that tree removal is proposed. The notice shall include a tree conservation plan that shows which trees will be irreparably damaged by the proposed development, and a description of the size, species, and species common name and general location description of the trees and an explanation that the trees have critical root zones that extend into the project site and will be encroached on by construction activities causing irreparable damage. The letter shall explain that 1) the tree(s) are proposed for removal at the developer's expense as part of this proposed development, 2) the designated trees cannot be removed without the property owner's permission, and if the owner chooses to retain the tree(s) despite the severe impacts to the root system, the owner may be responsible for any future corrective measures, including removal. The letter must be sent from the U.S. Postal Service via certified/return receipt, or other service that provides proof of mailing, to all applicable property owners. A copy of the domestic return receipts from the U.S. Postal Service or other proof of mailing of the notification provided with the letters shall be provided with the tree conservation plan submitted to the Town.
  5. In all cases, off-site trimming or cutting of trees requires permission of all involved landowners. Notice of intent to remove a tree does not replace a builder's responsibility to secure permission of adjacent landowners for that work.
- (b) Exceptions to Applicability. A tree conservation plan is not required to be submitted under the following conditions:
1. For the removal of trees grown and intended to be sold as live trees in the course of business on nursery or dealer properties registered by the Virginia Commissioner of Agriculture and Immigration (Plant Pest Act of 1952). This provision does not supersede the requirement to obtain an approved conservation plan prior to engaging in any other land disturbing activity.
  2. A tree conservation plan shall not be required to cut down any tree which has become, or threatens to become, a danger to human life or property due to accidental or natural causes or other emergency.
  3. A tree conservation plan shall not be required for the harvesting of trees on commercial forest land if the operation is conducted in conformance with the Virginia Department of Forestry's Best Management Practices.

**Sec. 29-4-2. Monitoring and Inspections; One Year Bonding of New Trees.**

- (a) The planting of any new tree(s) specified on the tree conservation plan shall take place after the completion of construction. The Department of Parks and Recreation shall inspect the trees prior to planting and also inspect the placement and installation of the tree(s). All products and workmanship related to the planting of the tree(s) shall be in accordance with the Town's requirements as set forth in the Town of Vienna Tree Preservation and Planting Guide. A one-year tree protection bond shall be collected by the Town for all new tree(s). The amount of the bond shall be set by the Department of Parks and Recreation based on the current Fairfax County Land Developmental Services unit pricing. If the tree(s) are thriving and in good condition one year from the date of planting the bond shall be returned. Otherwise, the tree(s) shall be replaced.
- (b) The Department of Parks and Recreation shall also inspect all existing trees after completion of construction to determine what damage, if any, has been caused by the stress of construction. The Department of Parks and Recreation shall notify the permit holder in writing if any existing trees no

longer qualify for canopy coverage. The letter shall state if mitigation measures are required to use a tree for canopy coverage. The permit holder shall provide an independent arborist's report to justify retaining a damaged tree or to support mitigation measures. Upon notification by the Department of Parks and Recreation that repairs or replacements to an existing tree are to be made, the permit holder shall make the required repairs and replacements and shall notify the Department of Parks and Recreation when the repairs and replacements are complete. The Department of Parks and Recreation shall inspect the repairs and replacements and notify the owner when they have been satisfactorily performed.

## **ARTICLE 5. Satisfying Tree Conservation Requirements.**

### **Sec. 29-5-1. Satisfying Tree Conservation Requirements.**

- (a) Approval of a tree conservation plan meeting the requirements of this chapter and subsequent release of all agreements and securities related to the tree conservation plan shall be deemed to satisfy tree conservation requirements except those tree conservation requirements stemming from proffered condition, development plan, conceptual/final development plan, special exception, special permit or variance approvals.
- (b) When required tree canopy is located on individual residential lots, the property owner shall not be precluded from adding, removing, or relocating tree canopy provided that the developer has been released from all agreements and securities related to the landscape plan and the landscaping is not required as part of proffered condition, development plan, conceptual/final development plan, special exception, special permit or variance approvals.

## **ARTICLE 6. INSPECTIONS, VIOLATIONS AND PENALTIES**

### **Sec. 29-6-1. Inspections**

- (a) The Director of Parks and Recreation shall provide for periodic inspections of tree conservation activities in accordance with this Article and Vienna's Tree Preservation and Planting Guide.

### **Sec. 29-6-2. Constitution and Processing of Violations.**

- (a) Any land disturbing activity and any removal of vegetation contrary to any of the provisions of this chapter shall constitute a violation.
- (b) Any person, whether owner, lessee, principal, agent, employee or otherwise, who violates any of the provisions of this chapter, or permits any such violation, or fails to comply with any of the requirements hereof; or any professional or Certified Arborist or Registered Consulting Arborist who directs or causes another person to violate any provision of this chapter, shall be subject to the enforcement provisions of this Article.
- (c) Upon becoming aware of any violation of any provision of this chapter, the Director of Parks and Recreation shall serve a notice of violation on the property owner, professional, or any other person committing or permitting the violation, either in person or by registered or certified mail. Such notice shall specify the provisions of the chapter which have been violated, the measures needed to remedy the violation, and a reasonable time in which to remedy the violations. Failure to take steps to comply with such notice within the time provided for therein shall constitute a separate violation of this chapter.
- (d) The Director of Parks and Recreation, on behalf of the Town Council, may apply to the Fairfax County Circuit Court for injunctive relief to enjoin a violation or a threatened violation of any provision of this chapter.

### **Sec. 29-6-3. Replacement Trees and/or Vegetation.**

- (a) Land disturbing activities involving tree removal without an approved tree conservation plan.

1. A tree conservation plan shall be submitted for approval by the Director of Parks and Recreation when a violation is issued for land disturbing activity involving tree clearing without an approved plan.
  2. Replacement trees and/or other vegetation may be required by the Director of Parks and Recreation according to the guidelines set forth in this Article and Vienna's Tree Preservation and Planting Guide.
- (b) Land disturbing activity conducted in violation of an approved tree conservation plan.
1. A revision to the approved tree conservation plan may be required by the Director of Parks and Recreation when land disturbing activities are conducted, without prior approval of the Director of Parks and Recreation, in areas outside the limits of clearing and grading shown on the approved plan resulting in the removal or damage to trees or forested areas designated to be preserved on such plan.
  2. Replacement trees and/or other vegetation may be required by the Director of Parks and Recreation according to the guidelines set forth in this Article and Vienna's Tree Preservation and Planting Guide.

**Sec. 29-6-4. Criminal Violations and Penalties.**

- (a) Any violation of the provisions of this ordinance shall be deemed a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not less than \$10 and not more than \$1000. Failure to remove or abate a violation within the time period established by the Court shall constitute a separate misdemeanor offense punishable by a fine of not less than \$10 nor more than \$1000, and any such failure during any succeeding ten-day period shall constitute a separate misdemeanor offense for each ten-day period punishable by a fine of not less than \$100 nor more than \$1500.
- (b) The remedy provided for in this Section is in addition to any other remedies provided by law, however, the designation of a particular violation of this ordinance for a civil penalty precludes criminal prosecution or sanction, except for any infraction that results in civil penalties that total \$5,000 or more.

**Sec. 29-6-5. Infractions and Civil Penalties.**

- (a) A violation of any provision of this ordinance shall be deemed an infraction and shall be punishable by a civil penalty of \$200 for the first violation; and subsequent violations arising from the same set of operative facts shall be punishable by a civil penalty of \$500 for each separate offense.
- (b) Each day during which any violation is found to have existed shall constitute a separate offense. However, in no event shall any such violation arising from the same set of operative facts be charged more frequently than once in any ten-day period, nor shall a series of such violations arising from the same set of operative facts result in civil penalties which exceed a total of \$5,000.
- (c) The designation of a particular violation as an infraction pursuant to Paragraph (a) above shall be in lieu of criminal sanctions, and such designation shall preclude the prosecution of a violation as a criminal misdemeanor unless such violation results in injury to any person or persons or the civil penalties under Paragraph (a) above total \$5,000 or more for such violation. If the civil penalties for a violation under Paragraph (a) above total \$5,000 or more, the violation may be prosecuted as a criminal misdemeanor.
- (d) After a notice of violation has been served on any person who violates this ordinance, if the violation has not ceased within the reasonable time specified in the notice, then, upon the approval of the Town Attorney, the Director of Parks and Recreation shall serve a summons upon such person.
- (e) Such summons shall contain the following information:
  1. The name and address of the person charged.
  2. The nature of the infraction and the ordinance provision(s) being violated.

3. The location, date and time that the infraction occurred or was observed.
  4. The amount of the civil penalty assessed for the infraction.
  5. The manner, location and time in which the civil penalty may be paid to the Town.
  6. The right of the recipient of the summons to elect to stand trial for the infraction and the date for such trial.
- (f) The summons shall provide that any person summoned for a violation may elect to pay the civil penalty by making an appearance in person or in writing by mail to the Director of Finance at least 72 hours before the time and date fixed for trial and, by such appearance, may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. Such summons shall provide that a signature to an admission of liability shall have the same force and effect as a judgment of court; however, an admission shall not be deemed a criminal conviction for any purpose.
- (g) If a person charged with a violation does not elect to waive trial and admit liability, the violation shall be tried in the General District Court in the same manner and with the same right of appeal as provided by law. A finding of liability shall not be deemed a criminal conviction for any purpose.
- (h) The remedies provided for in this Section are cumulative and not exclusive and shall be in addition to any other remedies provided by law.

#### **Article 7. APPEALS**

Any applicant aggrieved by a decision of the Director of Parks and Recreation in the administration of this chapter has the right to petition the Director of Parks and Recreation for reconsideration of the decision, provided such request is made in writing within fifteen (15) days of the date of the Director of Parks and Recreation's written decision.

#### **ARTICLE 8. VIENNA TREE COMMISSION.**

##### **Sec. 29-8-1. Tree Commission Purpose.**

There is hereby created and established a commission to be known as the Vienna Tree Commission, which shall advise and assist Town Council and Town Staff on matters relating to the conservation and management of the Town's trees and tree canopy and assist the Town in the development and maintenance of specifications and guidelines related to the same.

##### **Sec. 29-8-2. Tree Commission Membership.**

The commission shall consist of seven members, all of whom shall be appointed by Town Council. At least one member shall be selected from the Conservation and Sustainability Commission. In addition, a Town representative(s) from the Departments of Parks and Recreation and/or Planning and Zoning shall serve as an ex-officio member(s) of the commission. Except for the Town representative(s), all appointees shall be either residents of the Town or representatives of businesses or professions located in and licensed by the Town. No more than two nonresidents of the Town shall serve on the Tree Commission. In making all appointments to the commission, Town Council shall give consideration to persons who have evidenced an interest or expertise in tree conservation and tree policy.

##### **Sec. 29-8-3. Tree Commission Term of Members.**

The term of all members shall be for two years. Initially, four members of the board shall be appointed for a term of one year and three members shall be appointed for a term of two years. Thereafter, all appointments to the commission, except for those to fill an unexpired term, shall be for a period of two years. All members shall serve without compensation. Vacancies occurring on the commission for reasons other than the expiration of terms shall be filled by Town Council for the remainder of the unexpired term. Members shall

be eligible for reappointment. Members may be removed from the commission by a majority vote of Town Council.

**Sec. 29-8-4. Tree Commission Powers and Duties.**

- (a) The commission shall have the following powers and duties:
1. To recommend rules, regulations, policies and programs to the Town Council and Town staff relating to tree conservation and management, the care and improvement of the Town's urban forest, and protecting and enhancing the Town's tree canopy.
  2. To advise and assist the Town Council and Town staff regarding the planting, protection, maintenance, preservation, and removal of trees, shrubs, and other plants located on public property within the Town.
  3. To advise and assist the Town Arborist to ensure that the planting, maintenance, pruning, and removal of trees and shrubs on public property within the Town are done in accordance with current accepted standards.
  4. To help develop, maintain, and administer a written plan for the care, preservation, pruning, planting, replanting, removal, or disposition of trees and shrubs in parks, along streets, and in other public areas. Such plan will be reviewed annually, updated as necessary, and presented to Town Council; upon acceptance and approval by Town Council, such plan shall constitute the official public tree management plan for the Town
  5. To assist the Town with compiling and analyzing data to measure the Town's progress in restoring the Town's tree canopy.
  6. To attend and bring back knowledge and information from nearby and online meetings, seminars, and conferences concerning urban forestry.
  7. To undertake an ongoing program of public outreach and education in order to promote public understanding and support of the Town's public tree management plan and to increase public awareness of the value and benefits of a diversified, sustainable community forest.
  8. To work with Town staff to compile, publish, and update annually information and statistics regarding the Town's efforts with regard to trees, including a) the amount spent each year by the Town for the purchase and planting of trees, b) the number of trees planted on Town property each year, c) the number of trees on Town property cut down or removed, d) any available data regarding the extent of or changes to the Town's tree canopy, and e) any available data regarding an inventory of the Town's street trees, such as the percentage of street tree planting sites that are filled, and priority street tree planting sites that are unfilled. The commission shall present a report to Town Council each year that includes a description of the commission's activities, key data and statistics, and ongoing and anticipated future activities.
- (b) Town Council shall have the right to review the conduct, acts, and decisions of the Town tree commission. Further, the tree commission, when requested by Town Council, shall consider, investigate, make findings, report on, and recommend any special matter or question coming within the scope of its work.

**ARTICLE 9. TOWN TREE REPORT**

**Sec. 29-9-1. Annual Tree Report.**

- (a) The Town shall compile, publish, and update annually information and statistics regarding the Town's efforts with regard to trees, including a) the amount spent each year by the Town for the purchase and planting of trees, b) the number of trees planted on Town property each year, c) the number of trees on Town property cut down or removed, d) any available data regarding the extent of or changes to the

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**8/15/2023**

Town's tree canopy, and e) any available data regarding an inventory of the Town's street trees, such as the percentage of street tree planting sites that are filled, and priority street tree planting sites that are unfilled.

- (b) The information and reporting described in (a) above shall be published each year, including on the Town website.