



## Legislation Details (With Text)

**File #:** 24-4241      **Version:** 1      **Name:**  
**Type:** Action Item      **Status:** Agenda Ready  
**File created:** 1/16/2024      **In control:** Town Council Meeting  
**On agenda:** 2/5/2024      **Final action:**

**Title:** Request to Direct the Town Clerk to advertise a Notice of Intent to Adopt Text Amendments Related to Preserving and Enhancing Tree Canopy in Chapters 17, 18 and 27

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. 01 - Proposed Amendments to Tree Canopy Ordinance New Chapter DRAFT 01 25 2024 SDB, 2. 02 - TreeBoardAmendments Town Code Section 27-5 DRAFT Updated 01 25 2024 SDB, 3. 03 - Relevant State Code 961 961.1 10.1-1127, 4. 04 - DPZ Memo and PP for 12-4-23 TC Discussion of Tree Code Amendments, 5. 05- Written Testimony to PC on Trees, 6. 06 - Public Hearing Comments on Proposed Amendments to Town Code Chapters 17 October 23 2023 (2), 7. 07 - Written comments to TC - Tree Ordinance 2023, 8. 08 - PC Recommendation to Town Council - Tree Ordinance, 9. 09 - Regulatory Requirements

Date	Ver.	Action By	Action	Result
2/5/2024	1	Town Council Meeting	postponed	Pass

**Subject:**

Request to Direct the Town Clerk to advertise a Notice of Intent to Adopt Text Amendments Related to Preserving and Enhancing Tree Canopy in Chapters 17, 18 and 27

### DATE(S) OF PRIOR COUNCIL CONSIDERATION OF THIS ISSUE:

Sept. 14, 2020 - Request approval of pro bono tree project by Kirkland & Ellis and Ramboll US Corporation

Oct. 11, 2021 - Approve Urban Tree Canopy Assessment funding agreement

Oct. 17, 2022 - Presentation of Urban Tree Canopy Assessment Report

Jan. 9, 2023 - Motion to Adopt Top Four Council Priorities

March 6, 2023 - Presentation of Trees in Vienna: A Review of Programs to Help Vienna Preserve and Manage its Tree Canopy.

May 8, 2023 - Urban Tree Management Discussion

June 5, 2023 - Request formal approval to increase FY2023 spending with PlanIT Geo for tree inventory.

June 12, 2023 - Urban Tree Management Discussion

June 20, 2023 - Presentation - Tree Inventory Report

Aug. 28, 2023 - Discussion of Proposed Code Amendments to Enhance Tree Canopy, Tree Preservation and Amendments to Tree Board and/or Creation of an Independent Tree Commission; and referral of drafts to the Planning Commission for its review.

Sept. 25, 2023 - Set a Public Hearing on Proposed Amendments to Town Code Chapters 17, 18 and 27, related to Enhancing Vienna's Tree Canopy - Motion failed by Town Council vote of 3-3.

Oct. 2, 2023 - Renew the motion to set a Public Hearing on Proposed Amendments to Town Code Chapters 17, 18 and 27, related to Enhancing Vienna's Tree Canopy - Motion approved by Town Council 10/2/23.

Oct. 23, 2023 - Public Hearing on Proposed Amendments to Town Code Chapters 17, 18 and 27, related to Enhancing Vienna's Tree Canopy

Nov. 13, 2023 - Preserving and Enhancing Tree Canopy - Consideration of Intent to Adopt new Town code amendments to Chapters 17, 18 and 27

Dec. 4, 2023 - Discussion of potential code amendments to Chapters 17, 18 and 27 - Preserving and Enhancing Tree Canopy

Jan. 8, 2024 - Second discussion of potential code amendments to Chapters 18 and 27 - Preserving and Enhancing Tree Canopy

## **EXPLANATION AND SUMMARY :**

Since 2020, the Town Council, community members, the Conservation and Sustainability Commission (CSC) and staff have all been bringing increased attention to the challenge of the declining amount of trees in the town limits of Vienna. Research conducted has shown that there has been a 13% decline in the tree canopy in Vienna over the 10 years from 2011 to 2021.

On Aug. 28, 2023, the Vienna Town Council indicated its desire to adopt amendments to the Town code with the purpose of preserving and enhancing the Town's overall tree canopy.

Three categories of potential code amendments were discussed:

- Changing the regulatory approach regarding tree canopy during development from the Town's current approach, which operates under the State's tree replacement provision (Virginia Code Section 15.2-961), to the other approach permitted by the State, which is more focused on providing incentives for tree conservation (Virginia Code Section 15.2-961.1).

- Changing the Town’s approach to the Tree Board, which is currently in Section 27-5 of the Code of Vienna and subservient to the CSC.
- Adding a code requirement for regular reporting on tree management.

On Aug. 28, 2023, the Town Council considered two legislative options for accomplishing these amendments and referred them both to the Planning Commission for review and recommendation.

On Sept. 27, 2023, the Planning Commission held a public hearing, which is required under State law for any proposed changes to zoning. On Nov. 8, after four discussions, the Planning Commission completed its recommendation and forwarded a memorandum to the Town Council. The Planning Commission took particular care to ask the Department of Parks and Recreation about its views and the challenges of implementation.

On Oct. 23, 2023, Town Council held its required public hearing and received written input through November 3, 2023.

On Dec. 4, 2023, the Town Council held a Conference Session to review the public testimony and the Planning Commission recommendations memorandum. The Council then discussed a series of decision points related to the potential code amendments.

On Jan. 8, 2024, the Town Council held a Conference Session to review the updated version of potential amendments to the Town Code based on Town Council guidance from the Dec. 4, 2023 Conference Session.

Attachment 1 provides the updated changes to the newly adopted (under Code Create) Chapter 18 - Zoning and Subdivision Ordinance and to Chapter 17, where the regulations related to trees would be housed if the code amendments are adopted. It reflects the potential shift of Vienna from regulating tree canopy during development from the State provision 15.2-961 - Replacement of Trees During Development to the alternate permitted approach 15.2-961.1 - Conservation of Trees During Land Development. It also reflects the Town Council’s guidance on specific points within 15.2-961.1.

Attachment 2 provides the updated changes to Chapter 27 - Conservation and Sustainability Commission, where the Tree Board is currently defined. Changes to Section 27-5 reflect the Town Council’s guidance.

**Attachments:**

1. Draft amendments to Chapter 18 - Zoning and Subdivision Ordinance and new proposed Chapter 17 for Tree Canopy/Preservation Ordinance provisions.
2. Draft amendments to Chapter 27 - Conservation and Sustainability Commission.
3. Relevant portions of the State code, which are Virginia Code Section 15.2-961 - Replacement of Trees During Development and Virginia Code Section 15.2-961.1 - Conservation of Trees During

Land Development.

4. Staff memorandum, and associated presentation document, used at the Dec. 4, 2023, Conference Session.
5. Written testimony to the Planning Commission for its public hearing.
6. All public comments made at the Town Council public hearing on Oct. 23, 2023.
7. All written comments submitted to the Town Council by the deadline of Nov. 3, 2023.
8. Planning Commission's recommendation memorandum to the Town Council.
9. Regulatory Requirements form.

**Strategic Plan Initiative:** Vienna as an environmentally sustainable community.

**Board or Commission of Interest:** Conservation and Sustainability Commission

**Departmental Recommendation :** Town Council may adopt the text amendments, and the ordinance if approved shall become effective on Arbor Day, April 26, 2024.

**Finance Recommendation :**

**Purchasing Recommendation :**

**Town Attorney Recommendation :** The Town Council has received input from the public, held Conference/Work Sessions, conducted a public hearing, and received recommendations from the Planning Commission regarding proposed amendments to the Town's Tree Canopy and Tree Board ordinance provisions. The proposed amendments to Chapter 18, creation of a new Chapter 17, and amendments to Chapter 27 have are now before the Town Council for its final review and decision as to whether to advertise adoption. The Town Council may direct the Town Clerk to advertise an intent to adopt the proposed amendments to Chapters 18 and 27, and the adoption of a new Chapter 17 - TREE PRESERVATION AND CANOPY REQUIREMENTS DURING DEVELOPMENT in its discretion.

**Town Manager's Recommendation :** I recommend the Town Council move and direct the Town Clerk to advertise a Notice of Intent to adopt the proposed text amendments, at its discretion.

Cost and Financing: N/A

Account Number: N/A

Prior Funding Approval: *Annual General Budget (Year), Amendments, CIP Budget (Year), or ARPA.*  
N/A

Decision Needed by This date: Feb. 26, 2024

**PROPOSED/SUGGESTED MOTION**

"I move to direct the Town Clerk to advertise a Notice of Intent to adopt the proposed text

amendments related to the creation of a Tree Commission as well as the preserving and enhancing of tree canopy during development in Chapters 18, 27, and the adoption of a new Chapter 17, TREE PRESERVATION AND CANOPY REQUIREMENTS DURING DEVELOPMENT for February 26, 2024."

Or  
Other action deemed necessary by Council.