



The Fairfax County Tree Commission  
12055 Government Center Parkway, Suite 518  
Fairfax, Virginia 22035  
703.324.1770

**August 3, 2023**

Jeffrey McKay, Chairman  
James Walkinshaw, Legislative Committee Chairman  
12000 Government Center Parkway  
Fairfax, VA 22035

Sent by email to: [clerktothebos@fairfaxcounty.gov](mailto:clerktothebos@fairfaxcounty.gov)

### **Tree Commission's Recommended Proposals for the General Assembly 2024**

Please see the attached four (4) proposals for the Legislative Committee to consider including in the 2024 Legislative Package, approved by the Tree Commission on August 1, 2023.

Sincerely,

*Please email [TreeCommission@fairfaxcounty.gov](mailto:TreeCommission@fairfaxcounty.gov) for official signed version of letter*

Cindy Speas, Chair  
Fairfax County Tree Commission

# POSITION STATEMENT FORM

## **GENERAL SUBJECT AREA — TITLE OF PROPOSAL:**

Understanding and Addressing Tree Canopy Loss in Virginia

## **PROPOSAL:**

Support legislation that provides resources and funding to assess where and why tree canopy losses are occurring in Virginia, incentives to stop and reverse tree canopy loss, and funding for statewide educational efforts regarding the harms caused by tree canopy loss, the benefits of native trees, and how they help to mitigate the adverse effects of climate change.

## **SOURCE:**

Fairfax County Tree Commission, August 2023

## **BACKGROUND:**

Tree canopy losses continue to occur across Virginia, contributing to degraded waterways and our ability to address and mitigate the effects of climate change. Understanding the reasons for tree canopy losses in Virginia will be essential for the state and localities to take action to slow and reverse the losses. High resolution land cover data showing land changes between 2018 and 2022 is due to become available in 2024. Determining where recent tree losses have occurred and why it will be necessary to address these developments with education, incentives, and state programs. As soon as the new data are available, a comprehensive technical assessment should take place statewide so that legislators, localities, and citizens across the state can take actions to address losses.

One way to achieve this would be to appropriate funds for the Department of Forestry to fund a statewide tree canopy and forest health assessment using the new tree canopy dataset to determine the drivers of forest and urban tree canopy loss, including disease, infrastructure, infill and greenfield development, saltwater intrusion, and homeowner removal. The assessment results could be available to citizens across the state to help determine tree canopy health in their areas. Such a program could also include development of incentives to stop and reverse tree canopy loss, and statewide educational efforts regarding the harms caused by tree canopy loss, the benefits of native trees, and how they help to mitigate the adverse effects of climate change.

## **STAFF RECOMMENDATION:**

*(Do not fill out-- This will be indicated by the Legislative Director and County Executive)*

# POSITION STATEMENT FORM

## **GENERAL SUBJECT AREA — TITLE OF PROPOSAL:**

Increasing Ability of the Virginia Conservation Assistance Program (VCAP) and of Homeowners Living in Property Associations to Install Low-Impact Landscaping to Address Stormwater Concerns

## **PROPOSAL:**

Support legislation to continue to adequately fund VCAP's ability to provide financial incentives and educational assistance to property owners installing eligible native trees and using low-impact planting practices to address stormwater and erosion issues. Also support legislation that would help ensure that all residents of Virginia's 8,810 community associations have the ability to leverage this program without being prohibited by property community association covenants from installing conservation landscaping.

## **SOURCE:**

Fairfax County Tree Commission, August 2023

## **BACKGROUND:**

The benefits of low-impact landscaping, including conservation landscapes, rain gardens, and other methods of addressing stormwater runoff and controlling erosion, have been extensively documented. VCAP has been tremendously successful in assisting homeowners and community associations in their efforts to address stormwater runoff concerns. With the increased frequency of severe storms as a result of climate change, the need for such assistance and public education about the benefits of planting native trees and plants is growing rapidly. Adequate funding for the VCAP program will be essential to ensuring that this momentum and success continues.

Even though the VCAP program is demonstrably successful, current Virginia code allows Property Associations to require the use of turf-grass and restrict the use of low-impact landscaping that VCAP recommends, including rain gardens, pollinator gardens, bio-habitat gardens and landscaping designed to mitigate stormwater and provide other ecological benefits. As we face the current climate crisis and increase in the intensity and duration of rainstorms, residents must have the flexibility to more sustainably manage their private land.

Proposed Virginia legislation would prohibit Virginia Property Associations from including or enforcing a restrictive covenant that imposes unreasonable limitations on homeowners using low-impact landscaping when they maintain and regularly tend to the low-impact landscaping.

Other states have adopted similar legislation: Maryland (House Bill 322, signed in 2021): Laws - Statute Text ([maryland.gov](http://maryland.gov)), Texas: Texas Property Code Section 202.007 - Certain Restrictive Covenants Prohibited ([public.law](http://public.law)), Florida: Chapter 373 Section 185 - 2022 Florida Statutes

(flsenate.gov), California: California Civil Code Section 4735 (public.law). A similar Virginia amendment regarding solar energy (§ 55.1-1820.1. Installation of solar energy collection devices (virginia.gov) exists.

**STAFF RECOMMENDATION:**

*(Do not fill out-- This will be indicated by the Legislative Director and County Executive)*

# POSITION STATEMENT FORM

## **GENERAL SUBJECT AREA — TITLE OF PROPOSAL:**

Addressing the Critical Threat of Non-native Invasive Plants to the Health and Preservation of Virginia's Forests

## **PROPOSAL:**

Support legislation that would allow counties to adopt ordinances banning or imposing a surcharge on the sale of the most damaging of invasive plant species which are threatening the viability of countless trees in parklands and forested areas across Virginia.

## **SOURCE:**

Fairfax County Tree Commission, August 2023

## **BACKGROUND:**

Invasive vines, shrubs, trees and other plants are an emerging threat to Virginia's forests, specifically the high to medium threat species as listed by the Department of Conservation and Recreation. The threat is more evident in urban areas because invasives thrive in disturbed land, but they are also visible along roadways, state parks and forests and agricultural field edges in our rural areas. Invasive vines topple trees with their weight or smother them so that sunlight cannot reach the canopies, and some invasive plants also make the ground toxic to beneficial native trees. Increasingly, statewide tree planting efforts are doomed to the rapid dominance of invasives. Because invasive plants cannot provide food to insects or birds, ultimately the nearby food web collapses, and the health of the entire ecosystem is threatened.

Many invasive plants continue to be available commercially to be planted primarily on private properties. Education efforts notwithstanding, the continued presence of invasive plant species in the marketplace has increased the economic burden on the state and localities for removal and subsequent forest restoration efforts. Seed disbursement and root spread do not follow political boundaries, so while counties would benefit greatly from having the choice to ban the sale of invasive plant species in their jurisdictions, it would be sensible to simultaneously study the benefits of a statewide ordinance.

## **STAFF RECOMMENDATION:**

*(Do not fill out—This will be indicated by the Legislative Director and County Executive)*

# POSITION STATEMENT FORM

## **GENERAL SUBJECT AREA -- TITLE OF PROPOSAL:**

Studying the benefits and impacts of a Permitting System for the Preservation of Mature, Native Trees in Virginia

## **PROPOSAL:**

Support legislation establishing a study to assess the benefits and impacts of permitting systems to preserve healthy, mature native trees in urban forests, including, but not limited to, resource protection areas, riparian buffers and flood plains. The study topics could include application process, use of a professional consulting arborist assessments in the process, and homeowner requirements to demonstrate the need to remove an identified tree, and fees for failure to get a permit or failure to abide by permit requirements might be effective.

## **SOURCE:**

Fairfax County Tree Commission, August 2023

## **BACKGROUND:**

In the last several years there has been a new focus on the benefits of trees to our state. Currently our rural forests provide minimal timber harvesting in order to fund the Department of Forestry; they provide greenhouse gas removal and sequestration and stormwater runoff mitigation; state recreational spaces are centered on trees; and trees are the capstone plant in a thriving ecological system that ultimately benefits humans. In the urban forest, a vibrant tree canopy offers all those benefits and more—they provide the economic benefits of lower energy costs and increased property values; they provide health benefits by reducing air born particulate matter (PM2s) and improve mental health by muffling urban sound and reducing heat island effects in concrete corridors. There are jurisdictions across the United States that not only have a permitting system that requires review, but also includes incentives (and penalties) as part of the structure. Studying these to determine the acreage/canopy that has been protected versus removed in those systems could help inform Virginia about opportunities for ordinance changes that could improve and enhance the health of our state forests.

## **STAFF RECOMMENDATION:**

*(Do not fill out-- This will be indicated by the Legislative Director and County Executive)*