



# TOWN OF FAIRFAX

## STAFF REPORT

### September 5, 2018

**TO:** Mayor and Town Council

**FROM:** Garrett Toy, Town Manager *GT*

**SUBJECT:** Introduce and read by title only an ordinance amending Chapter 8.36 ("Trees") of the Town Code to provide the Town Council flexibility to appoint at-large member(s) to the Tree Advisory Committee and modify the process for the Planning Commission to consider/approval tree removals as part of a development application; not subject to CEQA, categorically exempt

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#### CONTINUED FROM AUGUST MEETING

#### RECOMMENDATION

Introduce, waive first reading, and read by title only an ordinance of the Town Council of the Town of Fairfax amending Chapter 8.36 ("Trees") of the Town Code.

#### DISCUSSION

The Town regulates the removal and preservation of trees within the Town through Chapter 8.36 ("Trees") of the Town Code. The ordinance includes two amendments.

Section 8.36.030 of the Tree Ordinance provides for a Tree Advisory Committee to consist of one member of the Parks and Recreation Commission, one member of the Planning Commission, and one member of the Open Space Committee to be selected by their respective bodies (Committees), and two at-large members to be appointed by the Town Council. Currently, all the Committees report that their members do not wish to serve on the Tree Advisory Committee at this time. The main reason cited is the commitment required to serve on both their respective bodies and the Tree Committee is too time-consuming.

The first amendment will provide the Council the flexibility to appoint an at-large member in the event one or more of the above-referenced Committees do not select one of their members to the Tree Advisory Committee. The at-large appointment would serve "at the pleasure" of the Council. This provides the added flexibility of allowing a Committee to appoint one of its members at a later time to replace the at-large member. The appointment would be made pursuant to the Council's adopted Committee Interview and Appointment policies which will need to be modified to reflect this ordinance. Staff would bring back a resolution at the second reading of the ordinance to reflect the changes in the Council's policies.

The second amendment in the ordinance serves to streamline and clarify the review process, by allowing the Planning Commission (PC) to consider and approve tree removals requested as part of a project development application. This would also eliminate the awkward position of the Tree Committee considering applications for tree removal(s) after the PC has approved a project that involves the tree removal(s).

Depending on the Council's direction, staff would also bring back a resolution at the second reading of the ordinance to include the Tree Committee in the list of agencies to whom a planning application is circulated prior to approval/denial by the PC. This would provide the Tree Committee the opportunity to review and provide input on such tree requests early in the decision-making process of a development application.

Should the Council introduce the ordinance this evening and adopt it in October, at-large members could be appointed as soon as November.

**FISCAL IMPACT**

None

**ATTACHMENTS**

- A. Proposed Ordinance
- B. Ordinance redline

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX  
AMENDING CHAPTER 8.36 (“TREES”) OF THE TOWN CODE**

**WHEREAS**, the Town regulates the removal and preservation of trees within the Town through Chapter 8.36 (“Trees”) of the Town Code; and

**WHEREAS**, section 8.36.030 of the tree ordinance provides for a Tree Advisory Committee to consist of one member of the Parks and Recreation Commission, one member of the Planning Commission, and one member of the Open Space Committee to be selected by their respective bodies, and two at-large members to be appointed by the Town Council; and

**WHEREAS**, the Town Council desires the flexibility to appoint an at-large member in the event one or more of the above-referenced bodies does not select one of its members to the Tree Advisory Committee; and

**WHEREAS**, the Town Council desires to allow the consideration and approval of tree removals together with the approval of development projects that necessitate the tree removals in order to streamline the review process;

**NOW, THEREFORE**, the Town Council of the Town of Fairfax does ordain as follows:

**SECTION 1:** Subdivision (A) of Section 8.36.030 of the Town Code is hereby amended to read as follows:

“(A) The Tree Advisory Committee shall consist of one member of the Parks and Recreation Commission, one member of the Planning Commission, and one member of the Open Space Committee to be selected by their respective bodies, and two at-large members to be appointed by the Town Council; provided, however, the Town Council may appoint additional at-large members to serve at the pleasure of the Council in the event one or more of the above-referenced bodies do(es) not select one of its members to serve on the Tree Advisory Committee within 30 days of a vacancy or other failure to appoint a member. Should one of the above-referenced bodies wish to appoint a member after the Council has appointed the additional at-large member, the appointment shall be made pursuant to the Council’s adopted Committee Interview and Appointment policy.”

**SECTION 2:** Section 8.36.090 of the Town Code is hereby amended to read as follows:

“§ 8.36.090 SUBDIVISIONS AND OTHER DEVELOPMENT PROJECTS.

A subdivider or an applicant for any development permit under Title 17 need not obtain a separate tree removal permit to alter or remove a tree designated as “To Be Removed” on an approved subdivision map (tentative map or parcel map) or other development plan, provided that the tree removal and a Tree Protection Plan have been reviewed and approved by the decision-making body for the subdivision map or development plan based on the criteria in

Section 8.36.060(B) and Section 8.36.080 of this chapter. The subdivision map or other development plans required by this code shall clearly designate type, size, and location of any tree upon the property that is to be altered or removed. The decision-making body may also require the applicant to submit a report by a Qualified Arborist as provided in Section 8.36.060(A).”

**SECTION 3:** This Ordinance shall be effective 30 days following its adoption by the Town Council. Copies of this Ordinance shall, within fifteen days after its passage and adoption, be posted in three public places in the Town of Fairfax, to wit: 1. Bulletin Board, Town Hall Offices; 2. Bulletin Board, Fairfax Post Office; 3. Bulletin Board, Fairfax Women's Club building.

The foregoing Ordinance was introduced at a regular meeting of the Town Council on the 5th day of September 2018, and duly adopted at the next regular meeting of the Town Council on the \_\_\_ day of \_\_\_\_\_, 2018, by the following vote, to wit:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
PETER LACQUES, Mayor

Attest:

\_\_\_\_\_  
Michele Gardner, Town Clerk

\_\_\_\_\_  
Date

ORDINANCE NO. \_\_\_\_

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX  
AMENDING CHAPTER 8.36 (“TREES”) OF THE TOWN CODE

WHEREAS, the Town regulates the removal and preservation of trees within the Town through Chapter 8.36 (“Trees”) of the Town Code; and

WHEREAS, section 8.36.030 of the tree ordinance provides for a Tree Advisory Committee to consist of one member of the Parks and Recreation Commission, one member of the Planning Commission, and one member of the Open Space Committee to be selected by their respective bodies, and two at-large members to be appointed by the Town Council; and

WHEREAS, the Town Council desires the flexibility to appoint an at-large member in the event one or more of the above-referenced bodies does not select one of its members to the Tree Advisory Committee; and

WHEREAS, the Town Council desires to allow the consideration and approval of tree removals together with the approval of development projects that necessitate the tree removals in order to streamline the review process~~give the Planning Commission the authority to approve permits for tree removals necessitated by projects properly before it;~~

NOW, THEREFORE, the Town Council of the Town of Fairfax does ordain as follows:

**SECTION 1:** Subdivision (A) of Section 8.36.030 of the Town Code is hereby amended to read as follows:

“(A) The Tree Advisory Committee shall consist of one member of the Parks and Recreation Commission, one member of the Planning Commission, and one member of the Open Space Committee to be selected by their respective bodies, and two at-large members to be appointed by the Town Council; provided, however, the Town Council may appoint ~~an additional~~ at-large members to serve at the pleasure of the Council in the event one or more of the above-referenced bodies do(es) not select one of its members to serve on the Tree Advisory Committee within 30 days of a vacancy or other failure to appoint a member. Should one of the above-referenced bodies wish to appoint a member after the Council has appointed the additional at-large member, the appointment shall be made pursuant to the Council’s adopted Committee Interview and Appointment policy.”

**SECTION 2:** Section 8.36.090 of the Town Code is hereby amended to read as follows:

“§ 8.36.090 SUBDIVISIONS AND OTHER DEVELOPMENT PROJECTS.

A subdivider or an applicant for any development permit under Title 17 need not obtain a separate tree removal permit to alter or remove a tree designated as “To Be Removed” on an approved subdivision map (tentative map or parcel map) or other development plan, provided that the tree removal and a Tree Protection Plan have been reviewed and approved by the

decision-making body for the subdivision map or development plan based on the criteria in Section 8.36.060(B) and Section 8.36.080 of this chapter. The subdivision map or other development plans required by this code shall clearly designate type, size, and location of any tree upon the property that is to be altered or removed. The decision-making body may also require the applicant to submit a report by a Qualified Arborist as provided in Section 8.36.060(A)."

**SECTION 3:** This Ordinance shall be effective 30 days following its adoption by the Town Council. Copies of this Ordinance shall, within fifteen days after its passage and adoption, be posted in three public places in the Town of Fairfax, to wit: 1. Bulletin Board, Town Hall Offices; 2. Bulletin Board, Fairfax Post Office; 3. Bulletin Board, Fairfax Women's Club building.

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AYES:

NOES:

ABSENT:

\_\_\_\_\_  
PETER LACQUES, Mayor

Attest:

\_\_\_\_\_  
Michele Gardner, Town Clerk

\_\_\_\_\_  
Date