

For Discussion – October 26, 2022 & February 8, 2023  
Introduction – May 24, 2023  
Public Hearing – June 14, 2023 & July 12, 2023  
Adopted – July 12, 2023  
Enacted – August 2, 2023

## **ORDINANCE NO. 540**

**AN ORDINANCE TO AMEND THE CODE OF THE TOWN OF ST. MICHAELS; CHAPTER 340 ZONING, TO AMEND ARTICLE XVI LANDSCAPING, ENVIRONMENTAL STANDARDS AND LIGHTING FOR PURPOSES OF UPDATING THE CODE IN REGARDS TO TREE REMOVAL CRITERIA AND FEE-IN-LIEU FUND.**

**WHEREAS**, the Commissioners of St. Michaels (the “Commissioners”), a Municipal Corporation, has been delegated certain powers pursuant to the Maryland Annotated Code, Local Government Code, Division II, and Land Use Article, Division II to govern the zoning and land use within its municipal boundaries; and

**WHEREAS**, the Commissioners have the power to amend Chapter 340 Zoning of the St. Michaels Town Code under §340-193 Power to amend, and shall do so under the provision of §340-195 Text amendments; and

**WHEREAS**, the Planning Commission reviewed proposals for such, discussed the issue and made recommendations on the proposed amendments at their meeting on April 6, 2023, including opening the meeting for public comments and consideration of such;

**WHEREAS**, On October 26, 2022 and on February 8, 2023, the Town Commissioners discussed establishing a tree removal and mitigation ordinance and associated fees;

**WHEREAS**, the Commissioners of St. Michaels introduced Ordinance No. 540 on May 24, 2023;

**WHEREAS**, public notice was published on **May 31, 2023** and on **June 7, 2023** concerning amendments to Chapter 340 of the Code of the Town of St. Michaels substantially in the forma as hereafter set forth, and;

**WHEREAS**, after having given due public notice, the Commissioners conducted a public hearing on **June 14, 2023** to receive public comment on the aforesaid amendments and kept the record open and continued the public hearing until **July 12, 2023**, and;

**WHEREAS**, for the reasons stated herein, the Commissioners deem it in the interest of the public health, welfare and safety of the citizens of the Town, and for good government of the Town, to enact the following Ordinance.

**NOW, THEREFORE BE IT ORDAINED AND ENACTED BY THE COMMISSIONERS OF ST. MICHAELS** that Chapter 340 Zoning Code of the Town of St. Michaels is hereby amended as follows, with all revision and new language shown in small caps and underlined and deleted language shown with a ~~strikethrough~~ as follows:

For Discussion – October 26, 2022 & February 8, 2023  
Introduction – May 24, 2023  
Public Hearing – June 14, 2023 & July 12, 2023  
Adopted – July 12, 2023  
Enacted – August 2, 2023

§340-15 Intensely developed areas (IDA)

\*\*\*\*\*

(6) When the cutting or clearing of trees in forests and developed woodland areas are associated with current or planned development activities, the following shall be required:

(a) INDIVIDUAL TREES REMOVED SHALL BE IN ACCORDANCE WITH THE TREE REPLACEMENT AND MITIGATION TABLE IN §340-182;

~~(a)~~ (b) Participation in programs established by the Town for the enhancement of forest and developed woodland resources, such as programs for urban forestry that involve street tree plantings, gardens, landscaping and open land buffer plantings;

~~(b)~~ (c) Development activities shall be designed and implemented to minimize the destruction of forest and woodland vegetation; and

~~(e)~~ (d) Development activities shall address the protection of existing forests and developed woodlands identified as habitat protection areas in this chapter.

\*\*\*\*\*

§340-172 Scope.

A. All practices requiring TREE REMOVAL, landscaping, buffering, and vegetation/forest protection shall meet the appropriate provisions of this article. The provisions of this article are considered minimum standards. The Town recognizes that due to the peculiarities of any given site and development proposal, the inflexible application of these landscape improvement standards may result in impractical or unnecessary site improvements that contribute little value toward enhancing the appearance of the development. Therefore, the Town (through the Planning Commission or Zoning Inspector) may permit deviations from the presumptive requirements of this article when the applicant can demonstrate that the proposed land planning, site planning, architectural or landscape architectural design solutions offer the appropriate "appearance" desired for development and growth in the Town. For projects requiring overlay zoning designations, variances or special exceptions, the Planning Commission may require additional landscape improvements.

\*\*\*\*\*

§ 340-182 TREE REMOVAL

A. INDIVIDUAL TREES REMOVED ON PRIVATE PROPERTY SHALL REQUIRE A PERMIT AND BE REPLACED IN ACCORDANCE WITH THE TREE REPLACEMENT AND MITIGATION TABLE, UNLESS

For Discussion – October 26, 2022 & February 8, 2023

Introduction – May 24, 2023

Public Hearing – June 14, 2023 & July 12, 2023

Adopted – July 12, 2023

Enacted – August 2, 2023

OTHERWISE SPECIFIED BY ARTICLE IV OF THE ZONING ORDINANCE (CHESAPEAKE BAY CRITICAL AREA OVERLAY DISTRICTS), OR OTHER CRITICAL AREA COMMISSION MITIGATION REGULATIONS, IN WHICH CASE THOSE REQUIREMENTS ARE TO BE APPLIED.

B. REPLACEMENT TREES SHALL BE MARYLAND NATIVE SPECIES MEASURING AT LEAST FOUR-AND-ONE HALF FEET (4.5') IN HEIGHT WITH A MINIMUM CALIPER OF ONE-AND-ONE HALF INCH (1.5") DIAMETER BREAST HEIGHT (DBH).

C. REPLACEMENT TREES SHALL BE PLANTED ON-SITE IF POSSIBLE; HOWEVER, THE APPLICANT MAY BE PERMITTED TO REPLACE TREES BY PLANTING OFF-SITE IN THE TOWN OF ST. MICHAELS WITH SUCH PROPERTY OWNER AUTHORIZATION OR ALTERNATIVELY MAY PAY A FEE IN LIEU OF PLANTING AS NOTED IN THE TREE REPLACEMENT AND MITIGATION TABLE. (SPECIMEN TREES ARE AT LEAST 30" IN DIAMETER AND A GOOD EXAMPLE OF A SPECIES DUE TO ITS SIZE, SHAPE OR AGE).

D. THE TOWN ADMINISTRATOR MAY AUTHORIZE THE USE OF SUCH TREE MITIGATION FUNDS FOR TREE PLANTING PROJECTS THROUGHOUT THE TOWN, FOR FUNDING INDIVIDUAL TREE PLANTING REQUESTS IN CASE OF HARDSHIP, AND FOR EXCEPTIONS TO THESE REQUIREMENTS FOR PROJECTS WITH SIGNIFICANT PUBLIC BENEFIT.

E. ANY PLANTING CONTRACTORS EMPLOYED FOR THIS RELATED WORK IS REQUIRED TO BE A LICENSED TREE EXPERT BY THE STATE OF MARYLAND WITH ASSOCIATED LIABILITY AND PROPERTY DAMAGE INSURANCE. REMOVAL OF DEAD OR DISEASED TREES REQUIRES MITIGATION ONLY AT A 1:1 RATIO REGARDLESS OF THE SIZE OF THE TREE BEING REMOVED. REPLACEMENT TREES SHALL COMPLY WITH SIZE REQUIREMENTS IN SECTION "B" ABOVE.

TREE REPLACEMENT AND MITIGATION TABLE

<u>SIZE OF THE TREE REMOVED MEASURED AT DIAMETER OF BREAST HEIGHT (DBH) AT 4.5'</u>	<u>NUMBER OF TREES REQUIRED FOR REPLACEMENT OF EACH TREE REMOVED – (SEE "B" ABOVE FOR PLANTING SIZE REQUIREMENT)</u>	<u>FEE IN LIEU OF PLANTING – ALL PROPERTY EXCEPT RESIDENTIAL</u>	<u>FEE IN LIEU OF PLANTING – RESIDENTIAL PROPERTY ONLY</u>
<u>LESS THAN 10 INCHES</u>	<u>ONE TREE</u>	<u>\$250.00</u>	<u>\$125</u>
<u>&gt; 10 AND &lt; 16 INCHES</u>	<u>TWO TREES</u>	<u>\$500.00</u>	<u>\$250</u>
<u>&gt; 16 AND &lt; 20 INCHES</u>	<u>THREE TREES</u>	<u>\$1,000.00</u>	<u>\$500</u>
<u>&gt; 20 AND &lt; 30 INCHES</u>	<u>FOUR TREES</u>	<u>\$1,500.00</u>	<u>\$750</u>

For Discussion – October 26, 2022 & February 8, 2023  
Introduction – May 24, 2023  
Public Hearing – June 14, 2023 & July 12, 2023  
Adopted – July 12, 2023  
Enacted – August 2, 2023

<u>ABOVE 30 INCHES</u> <u>(SPECIMEN)</u>	<u>SIX TREES</u>	<u>\$2,000.00</u>	<u>\$2000</u>
---	------------------	-------------------	---------------

**AND BE IT FURTHER ORDAINED AND ENACTED**, that this Ordinance shall take effect twenty (20) days from the date of its enactment, having been read at two (2) meetings of The Commissioners of St. Michaels and having been passed by a yea and nay vote of The Commissioners of St. Michaels.

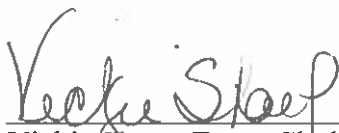
**HAVING BEEN READ** for the second time and passed by a yea and nay vote of The Commissioners of St. Michaels at a Public Meeting of the Commissioners of St. Michaels held on this **12<sup>th</sup> day of July, 2023** at a public hearing in St. Michaels, Maryland.


BREIMHURST	<u>yea</u>
DuPONT	<u>yea</u>
HARROD	<u>yea</u>
MERCIER	<u>yea</u>
WHITTINGTON	<u>yea</u>

**I HEREBY CERTIFY** that the above Ordinance No. 540 was passed by a yea and nay vote of The Commissioners of St. Michaels on this **12<sup>th</sup> day of July, 2023**.

ATTEST

THE COMMISSIONERS OF ST. MICHAELS

  
\_\_\_\_\_  
Vickie Sharp, Town Clerk

By:  (SEAL)  
\_\_\_\_\_  
David Breimhurst, President

For Discussion – October 26, 2022 & February 8, 2023

Introduction – May 24, 2023

Public Hearing – June 14, 2023 & July 12, 2023

Adopted – July 12, 2023

Enacted – August 2, 2023

**I HEREBY CERTIFY** that an exact copy of this Ordinance was posted from the 17<sup>th</sup> day of July, 2023, at 8:30 o'clock a.m. on this 6<sup>th</sup> day of August, 2023, at 4:30 o'clock p.m., on the bulletin board at the Town Office in St. Michaels, Maryland, and that a summary of the aforesaid Ordinance No 540, the date of its passage, its effective date and the fact that the entire text of the Ordinance may be read on the bulletin board of the Town Office, St. Michaels, Maryland, for at least twenty (20) days following the passage, has been published at least once each week for two (2) consecutive weeks following the passage of said Ordinance in a newspaper having general circulation in the Town of St. Michaels.

July 18, 2023  
Date

By: Robert Straebel  
Robert Straebel, Town Administrator