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HOUSE BILL NO. 1996

Offered January 13, 2025

Prefiled January 7, 2025

A BILL to amend and reenact § 15.2-2204 of the Code of Virginia, relating to planning and zoning; public notice.

Patron—Bennett-Parker

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2204 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-2204. Advertisement of plans, ordinances, etc.; joint public hearings; written notice of certain amendments.

A. Plans or ordinances, or amendments thereof, recommended or adopted under the powers conferred by this chapter need not be advertised in full, but may be advertised by reference. Every such advertisement shall identify the place or places within the locality where copies of the proposed plans, ordinances or amendments may be examined.

The local planning commission shall not recommend nor the governing body adopt any plan, ordinance or amendment thereof until notice of intention to do so has been published twice in some newspaper published or having general circulation in the locality, with the first notice appearing no more than 28 days before and the second notice appearing no less than seven five days before the date of the meeting referenced in the notice; however, the notice for both the local planning commission and the governing body may be published concurrently. The notice shall specify the time and place of hearing at which persons affected may appear and present their views. The local planning commission and governing body may hold a joint public hearing after public notice as set forth in this subsection. If a joint hearing is held, then public notice as set forth in this subsection need be given only by the governing body. In any instance in which a locality has submitted a correct and timely notice request to such newspaper and the newspaper fails to publish the notice, or publishes the notice incorrectly, such locality shall be deemed to have met the notice requirements of this subsection so long as the notice was published in the next available edition of a newspaper having general circulation in the locality. After enactment of any plan, ordinance or amendment, further publication thereof shall not be required.

B. When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of 25 or fewer parcels of land, then, in addition to the advertising as required by subsection A, the advertisement shall include the street address or tax map parcel number of the parcels subject to the action. Written notice shall be given by the local planning commission, or its representative, at least five days before the hearing to the owner or owners, their agent or the occupant, of each parcel involved; to the owners, their agent or the occupant, of all abutting property and property immediately across the street or road from the property affected, including those parcels that lie in other localities of the Commonwealth; and, if any portion of the affected property is within a planned unit development, then to such incorporated property owner's associations within the planned unit development that have members owning property located within 2,000 feet of the affected property as may be required by the commission or its agent. However, when a proposed amendment to the zoning ordinance involves a tract of land not less than 500 acres owned by the Commonwealth or by the federal government, and when the proposed change affects only a portion of the larger tract, notice need be given only to the owners of those properties that are adjacent to the affected area of the larger tract. Notice sent by registered or certified mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement. If the hearing is continued, notice shall be remailed. Costs of any notice required under this chapter shall be taxed to the applicant.

When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of more than 25 parcels of land, or a change to the applicable zoning ordinance text regulations that decreases the allowed dwelling unit density of any parcel of land, then, in addition to the advertising as required by subsection A, the advertisement shall include the street address or tax map parcel number of the parcels as well as the approximate acreage subject to the action. For more than 100 parcels of land, the advertisement may instead include a description of the boundaries of the area subject to the changes and a link to a map of the subject area. Written notice shall be given by the local planning commission, or its representative, at least five days before the hearing to the owner, owners, or their agent of each parcel of land involved, provided, however, that written notice of such changes to zoning ordinance text regulations shall not have to be mailed to the owner, owners, or their agent of lots shown on a subdivision plat approved and recorded pursuant to the

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59 provisions of Article 6 (§ 15.2-2240 et seq.) where such lots are less than 11,500 square feet. One notice sent
 60 by first class mail to the last known address of such owner as shown on the current real estate tax assessment
 61 books or current real estate tax assessment records shall be deemed adequate compliance with this
 62 requirement, provided that a representative of the local commission shall make affidavit that such mailings
 63 have been made and file such affidavit with the papers in the case. Nothing in this subsection shall be
 64 construed as to invalidate any subsequently adopted amendment or ordinance because of the inadvertent
 65 failure by the representative of the local commission to give written notice to the owner, owners or their agent
 66 of any parcel involved.

67 The governing body may provide that, in the case of a condominium or a cooperative, the written notice
 68 may be mailed to the unit owners' association or proprietary lessees' association, respectively, in lieu of each
 69 individual unit owner.

70 Whenever the notices required hereby are sent by an agency, department or division of the local
 71 governing body, or their representative, such notices may be sent by first class mail; however, a
 72 representative of such agency, department or division shall make affidavit that such mailings have been made
 73 and file such affidavit with the papers in the case.

74 A party's actual notice of, or active participation in, the proceedings for which the written notice provided
 75 by this section is required shall waive the right of that party to challenge the validity of the proceeding due to
 76 failure of the party to receive the written notice required by this section.

77 C. When a proposed comprehensive plan or amendment thereto; a proposed change in zoning map
 78 classification; or an application for special exception for a change in use or to increase by greater than 50
 79 percent of the bulk or height of an existing or proposed building, but not including renewals of previously
 80 approved special exceptions, involves any parcel of land located within one-half mile of a boundary of an
 81 adjoining locality of the Commonwealth, then, in addition to the advertising and written notification as
 82 required by this section, written notice shall also be given by the local commission, or its representative, at
 83 least 10 days before the hearing to the chief administrative officer, or his designee, of such adjoining locality.

84 D. When (i) a proposed comprehensive plan or amendment thereto, (ii) a proposed change in zoning map
 85 classification, or (iii) an application for special exception for a change in use involves any parcel of land
 86 located within 3,000 feet of a boundary of a military base, military installation, military airport, excluding
 87 armories operated by the Virginia National Guard, or licensed public-use airport then, in addition to the
 88 advertising and written notification as required by this section, written notice shall also be given by the local
 89 commission, or its representative, at least 30 days before the hearing to the commander of the military base,
 90 military installation, military airport, or owner of such public-use airport, and the notice shall advise the
 91 military commander or owner of such public-use airport of the opportunity to submit comments or
 92 recommendations.

93 E. The adoption or amendment prior to July 1, 1996, of any plan or ordinance under the authority of prior
 94 acts shall not be declared invalid by reason of a failure to advertise or give notice as may be required by such
 95 act or by this chapter, provided a public hearing was conducted by the governing body prior to such adoption
 96 or amendment. Every action contesting a decision of a locality based on a failure to advertise or give notice
 97 as may be required by this chapter shall be filed within 30 days of such decision with the circuit court having
 98 jurisdiction of the land affected by the decision. However, any litigation pending prior to July 1, 1996, shall
 99 not be affected by the 1996 amendment to this section.

100 F. Notwithstanding any contrary provision of law, general or special, the City of Richmond may cause
 101 such notice to be published in any newspaper of general circulation in the city.

102 G. When a proposed comprehensive plan or amendment of an existing plan designates or alters previously
 103 designated corridors or routes for electric transmission lines of 150 kilovolts or more, written notice shall also
 104 be given by the local planning commission, or its representative, at least 10 days before the hearing to each
 105 electric utility with a certificated service territory that includes all or any part of such designated electric
 106 transmission corridors or routes.

107 H. When any applicant requesting a written order, requirement, decision, or determination from the
 108 zoning administrator, other administrative officer, or a board of zoning appeals that is subject to the appeal
 109 provisions contained in § 15.2-2311 or 15.2-2314, is not the owner or the agent of the owner of the real
 110 property subject to the written order, requirement, decision or determination, written notice shall be given to
 111 the owner of the property within 10 days of the receipt of such request. Such written notice shall be given by
 112 the zoning administrator or other administrative officer or, at the direction of the administrator or officer, the
 113 requesting applicant shall be required to give the owner such notice and to provide satisfactory evidence to
 114 the zoning administrator or other administrative officer that the notice has been given. Written notice mailed
 115 to the owner at the last known address of the owner as shown on the current real estate tax assessment books
 116 or current real estate tax assessment records shall satisfy the notice requirements of this subsection.

117 This subsection shall not apply to inquiries from the governing body, planning commission, or employees
 118 of the locality made in the normal course of business.