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HOUSE BILL NO. 804

Offered January 14, 2026

Prefiled January 13, 2026

A BILL to amend and reenact §§ 15.2-2309 and 36-139 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 22 of Title 15.2 a section numbered 15.2-2209.4, relating to statewide housing targets for localities.

Patron—Helmer

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-2309 and 36-139 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 22 of Title 15.2 a section numbered 15.2-2209.4 as follows:

§ 15.2-2209.4. Statewide housing targets for localities.

A. The provisions of this section shall apply to every locality that has adopted a zoning ordinance pursuant to Article 7 (§ 15.2-2280 et seq.), but shall not apply to any locality that has had at least 7.5 percent growth in its total housing stock from January 1, 2020, to January 1, 2025, for so long as such locality does not drop below one percent annual growth in subsequent years. The calculation of such subsequent growth shall include the extra weight for increases in affordable housing and housing rehabilitation pursuant to subdivision 33 of § 36-139.

B. For a five-year period beginning January 1, 2028, each locality is required to increase its total housing stock by an average of 1.5 percent growth per year for five consecutive years in order to meet the total 7.5 percent growth target. Each locality shall develop a housing growth plan by July 1, 2027, that best meets the needs of the locality while meeting the target growth rates. When completed, each locality shall submit such housing growth plan to the Department of Housing and Community Development and make the plan publicly accessible. Such plan may include any strategy deemed appropriate by the locality; however, for purposes of demonstrating a good faith effort to meet growth targets pursuant to subsection C, a locality shall include modeling that demonstrates that the plan will result in the permitting of the required number of units and either (i) a zoning ordinance that includes provisions allowing for the by-right development and construction of multifamily residential uses on at least 75 percent of all land contained in commercial or business zoning district classifications, including any land contained in commercial or business zoning district classifications that allow for the by-right development and construction of single-family residential uses or (ii) at least three of the following housing growth strategies, submitted to and made available to the public by the Department of Housing and Community Development:

1. Eliminate minimum lot size requirements for new housing developments on commercial, industrial, or undeveloped residential parcels.

2. Eliminate off-street parking requirements for new housing developments on commercial, industrial, or undeveloped residential parcels.

3. Increase building height limits for multifamily housing in one or more districts zoned for multifamily housing.

4. Reduce the median time to receive final approval for site plans and rezonings combined for new single-family and multifamily housing developments to 180 days and for new affordable housing developments to 120 days.

5. Modify zoning ordinances to allow for accessory dwelling units and high-density housing, including multifamily units such as apartments and condominiums, on land previously zoned for single-family use, including all land use changes necessary to make for feasible construction of accessory dwelling units.

6. Rezone all commercial and undeveloped residential parcels to allow for residential development near transit stations, places of employment, higher education facilities, and other appropriate population centers.

7. Rezone office parks and strip malls to permit high-density single-family and multifamily housing developments.

8. Create and fund an affordable housing trust fund to provide grant subsidies to for-profit and nonprofit developers for the purpose of building single-family and multifamily housing priced at rates affordable to households earning below 80 percent of the area median income.

C. 1. After July 1, 2027, a developer or an organization whose mission is to advocate for increased residential development may appeal to the board of zoning appeals if the petitioner believes that a locality's housing growth plan does not meet the requirements of this section. Appeals filed pursuant to this subdivision may be filed any time prior to January 1, 2033, in accordance with general law. If the board of zoning

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appeals determines that such housing growth plan does not meet the requirements of this section, the board of zoning appeals can declare the locality to be noncompliant and force the locality to take corrective action. Decisions of the board of zoning appeals may be appealed to the circuit court in accordance with general law.

2. After January 1, 2033, (i) an applicant that seeks local government approval for a residential development site plan or rezoning that will increase the number of dwelling units in a locality and has that application rejected, either by a vote of the governing body or otherwise; or (ii) a potential resident of such residential development or an organization whose mission is to advocate for such residential developments, may, in addition to other remedies, appeal such decision to the board of zoning appeals. Such appeals shall be filed within 30 days in accordance with general law; however, appeals filed pursuant to this subdivision may be filed after January 1, 2033, for a plan or rezoning that was rejected between 2028 and 2033. The board of zoning appeals shall have authority to require localities that have not already implemented provisions allowing for the by-right development and construction of multifamily residential uses on at least 75 percent of all land contained in commercial or business zoning district classifications to implement such requirement if it finds that (a) the locality has failed to meet the required growth target as established in subsection B, (b) the locality chose to implement three of the growth strategies listed in clause (ii) of subsection B rather than the by-right multifamily residential measure described in clause (i) of subsection B, and (c) the required implementation of the by-right multifamily residential measure will not pose a significant health or safety concern. The board of zoning appeals shall have the authority to overturn the local decision and approve such application for localities that chose to implement the by-right multifamily development requirement if it finds that (1) the locality has failed to meet the required growth target as established in subsection B, (2) the locality did not in good faith implement the by-right multifamily development ordinance, (3) the locality rejected or delayed more than 25 percent of proposed projects, and (4) approval of the application will not pose a significant health or safety concern.

However, if the board of zoning appeals determines that a locality has failed to meet a required growth target but has in good faith implemented either the by-right multifamily residential ordinance as described in clause (i) of subsection B, or at least three of the housing growth strategies in clause (ii) of subsection B, and has not rejected or delayed beyond a reasonable time period, not to exceed 12 months from the time an initial application is filed, more than 25 percent of the proposals for new housing development that have come before the local governing body in the previous five years, the board of zoning appeals shall not overturn the local decision.

No provision of this section shall be construed as granting any board of zoning appeals the power to base its decisions on the merits of the purpose and intent of local ordinances duly adopted by the governing body or to take any action regarding the zoning classification of property beyond what is specifically authorized by this section. Decisions of the board of zoning appeals may be appealed to the circuit court in accordance with general law.

3. The Department of Housing and Community Development, no later than July 1, 2027, shall develop and publish standards to guide a board of zoning appeals in its decision-making process for appeals filed pursuant to this subsection.

D. Any locality that has had at least 7.5 percent growth in its total housing stock from January 1, 2020, to January 1, 2025, or that increases its total housing stock by an average of 1.5 percent growth per year for five consecutive years beginning on January 1, 2028, in order to meet the total 7.5 percent growth target, may impose enhanced civil penalties for failure to register a vacant building pursuant to § 15.2-1127. Such enhanced civil penalties shall not exceed twice the amount that would otherwise be permitted.

§ 15.2-2309. Powers and duties of boards of zoning appeals.

Boards of zoning appeals shall have the following powers and duties:

1. To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this article or of any ordinance adopted pursuant thereto. The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. The determination of the administrative officer shall be presumed to be correct. At a hearing on an appeal, the administrative officer shall explain the basis for his determination after which the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence. Altering the order of evidence is a reversible error only if the appellant lodges an objection citing this section and the board subsequently refuses to reorder the hearing. The board shall consider any applicable ordinances, laws, and regulations in making its decision. For purposes of this section, determination means any order, requirement, decision, or determination made by an administrative officer. Any appeal of a determination to the board shall be in compliance with this section, notwithstanding any other provision of law, general or special.

2. Notwithstanding any other provision of law, general or special, to grant upon appeal or original application in specific cases a variance as defined in § 15.2-2201, provided that the burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that his application meets the standard for a variance as defined in § 15.2-2201 and the criteria set out in this section.

Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, or alleviate a hardship by granting a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability, and (i) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance; (ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area; (iii) the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance; (iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and (v) the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A 4 of § 15.2-2286 at the time of the filing of the variance application. Any variance granted to provide a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability may expire when the person benefited by it is no longer in need of the modification to such property or improvements provided by the variance, subject to the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable. If a request for a reasonable modification is made to a locality and is appropriate under the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable, such request shall be granted by the locality unless a variance from the board of zoning appeals under this section is required in order for such request to be granted.

No variance shall be considered except after notice and hearing as required by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

In granting a variance, the board may impose such conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the public interest and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. Notwithstanding any other provision of law, general or special, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under the ordinance. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.

3. To hear and decide appeals from the decision of the zoning administrator after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

4. To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by § 15.2-2204, the board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.

5. No provision of this section shall be construed as granting any board the power to rezone property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the governing body.

6. To hear and decide applications for special exceptions as may be authorized in the ordinance. The board may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest, including limiting the duration of a permit, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

No special exception may be granted except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

7. To revoke a special exception previously granted by the board of zoning appeals if the board determines that there has not been compliance with the terms or conditions of the permit. No special

exception may be revoked except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. If a governing body reserves unto itself the right to issue special exceptions pursuant to § 15.2-2286, and, if the governing body determines that there has not been compliance with the terms and conditions of the permit, then it may also revoke special exceptions in the manner provided by this subdivision.

8. *Notwithstanding any other provision of law, general or special, to hear and decide appeals filed pursuant to subsection C of § 15.2-2209.4 related to housing targets. The decision of the board of zoning appeals shall be based on the criteria set out in § 15.2-2209.4 and shall conform to any criteria or regulations established by the Department of Housing and Community Development pursuant to subdivision 33 of § 36-139.*

9. The board by resolution may fix a schedule of regular meetings, and may also fix the day or days to which any meeting shall be continued if the chairman, or vice-chairman if the chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised for such meeting in accordance with § 15.2-2312 shall be conducted at the continued meeting and no further advertisement is required.

§ 36-139. Powers and duties of Director.

The Director of the Department of Housing and Community Development shall have the following responsibilities:

1. Collecting from the governmental subdivisions of the Commonwealth information relevant to their planning and development activities, boundary changes, changes of forms and status of government, intergovernmental agreements and arrangements, and such other information as he may deem necessary.

2. Making information available to communities, planning district commissions, service districts and governmental subdivisions of the Commonwealth.

3. Providing professional and technical assistance to, and cooperating with, any planning agency, planning district commission, service district, and governmental subdivision engaged in the preparation of development plans and programs, service district plans, or consolidation agreements.

4. Assisting the Governor in the providing of such state financial aid as may be appropriated by the General Assembly in accordance with § 15.2-4216.

5. Administering federal grant assistance programs, including funds from the Appalachian Regional Commission, the Economic Development Administration and other such federal agencies, directed at promoting the development of the Commonwealth's communities and regions.

6. Developing state community development policies, goals, plans and programs for the consideration and adoption of the Board with the ultimate authority for adoption to rest with the Governor and the General Assembly.

7. Developing a Consolidated Plan to guide the development and implementation of housing programs and community development in the Commonwealth for the purpose of meeting the housing and community development needs of the Commonwealth and, in particular, those of low-income and moderate-income persons, families and communities.

8. Determining present and future housing requirements of the Commonwealth on an annual basis and revising the Consolidated Plan, as necessary to coordinate the elements of housing production to ensure the availability of housing where and when needed.

9. Assuming administrative coordination of the various state housing programs and cooperating with the various state agencies in their programs as they relate to housing.

10. Establishing public information and educational programs relating to housing; devising and administering programs to inform all citizens about housing and housing-related programs that are available on all levels of government; designing and administering educational programs to prepare families for home ownership and counseling them during their first years as homeowners; and promoting educational programs to assist sponsors in the development of low and moderate income housing as well as programs to lessen the problems of rental housing management.

11. Administering the provisions of the Industrialized Building Safety Law (§ 36-70 et seq.).

12. Administering the provisions of the Uniform Statewide Building Code (§ 36-97 et seq.).

13. Establishing and operating a Building Code Academy for the training of persons in the content, application, and intent of specified subject areas of the building and fire prevention regulations promulgated by the Board of Housing and Community Development.

14. Administering, in conjunction with the federal government, and promulgating any necessary regulations regarding energy standards for existing buildings as may be required pursuant to federal law.

15. Identifying and disseminating information to local governments about the availability and utilization of federal and state resources.

16. Administering, with the cooperation of the Department of Health, state assistance programs for public

water supply systems.

17. Advising the Board on matters relating to policies and programs of the Virginia Housing Trust Fund.

18. Designing and establishing program guidelines to meet the purposes of the Virginia Housing Trust Fund and to carry out the policies and procedures established by the Board.

19. Preparing agreements and documents for loans and grants to be made from the Virginia Housing Trust Fund; soliciting, receiving, reviewing and selecting the applications for which loans and grants are to be made from such fund; directing the Virginia Housing Development Authority and the Department as to the closing and disbursing of such loans and grants and as to the servicing and collection of such loans; directing the Department as to the regulation and monitoring of the ownership, occupancy and operation of the housing developments and residential housing financed or assisted by such loans and grants; and providing direction and guidance to the Virginia Housing Development Authority as to the investment of moneys in such fund.

20. Establishing and administering program guidelines for a statewide homeless intervention program.

21. Administering 15 percent of the Low Income Home Energy Assistance Program (LIHEAP) Block Grant and any contingency funds awarded and carry over funds, furnishing home weatherization and associated services to low-income households within the Commonwealth in accordance with applicable federal law and regulations.

22. Developing a strategy concerning the expansion of affordable, accessible housing for older Virginians and Virginians with disabilities, including supportive services.

23. Serving as the Executive Director of the Commission on Local Government as prescribed in § 15.2-2901 and perform all other duties of that position as prescribed by law.

24. Developing a strategy, in consultation with the Virginia Housing Development Authority, for the creation and implementation of housing programs and community development for the purpose of meeting the housing needs of persons who have been released from federal, state, and local correctional facilities into communities.

25. Administering the Private Activity Bonds program in Chapter 50 (§ 15.2-5000 et seq.) of Title 15.2 jointly with the Virginia Small Business Financing Authority and the Virginia Housing Development Authority.

26. Developing a statement of tenant rights and responsibilities explaining in plain language the rights and responsibilities of tenants under the Virginia Residential Landlord and Tenant Act (§ 55.1-1200 et seq.) and maintaining such statement on the Department's website. The Director shall also develop and maintain on the Department's website a printable form to be signed by the parties to a written rental agreement acknowledging that the tenant has received from the landlord the statement of tenant rights and responsibilities as required by § 55.1-1204. The Director may at any time amend the statement of tenant rights and responsibilities and such printable form as the Director deems necessary and appropriate. The statement of tenant rights and responsibilities shall contain a plain language explanation of the rights and responsibilities of tenants in at least 14-point type. The statement shall provide the telephone number and website address for the statewide legal aid organization and direct tenants with questions about their rights and responsibilities to contact such organization.

27. Developing a statement of tenant rights and responsibilities explaining in plain language the rights and responsibilities of tenants under the Virginia Manufactured Home Lot Rental Act (§ 55.1-1300 et seq.) and maintaining such statement on the Department's website. The Director shall also develop and maintain on the Department's website a printable form to be signed by the parties to a written rental agreement acknowledging that the tenant has received from the landlord the statement of tenant rights and responsibilities as required by § 55.1-1303. The Director may at any time amend the statement of tenant rights and responsibilities and such printable form as the Director deems necessary and appropriate. The statement of tenant rights and responsibilities shall contain a plain language explanation of the rights and responsibilities in at least 14-point type. The statement shall provide the telephone number and website address for the statewide legal aid organization and direct tenants with questions about their rights and responsibilities to contact such organization.

28. Developing a sample termination notice that includes language referencing acceptance of rent with reservation by a landlord following a breach of a lease by a tenant in accordance with § 55.1-1250. The sample termination notice shall be in at least 14-point type and shall be maintained on the Department's website.

29. Developing and operating a Virginia Residential Sites and Structures Locator database to assist localities in marketing any structures and parcels determined by the locality to be suitable for future residential or mixed-use development or redevelopment and that are under (i) public ownership, (ii) public and private ownership, or (iii) private ownership if the owner or owners have authorized the locality to market the structure or parcel for future residential or mixed-use development or redevelopment purposes.

30. Conducting a comprehensive statewide housing needs assessment at least every five years, which shall include (i) a review of housing cost burden and instability, supply and demand for affordable rental housing, and supply and demand for affordable for-sale housing and (ii) regional or local profiles that focus on specific housing needs of particular regions or localities.

307 31. Developing a statewide housing plan that reflects the findings of the statewide housing needs
308 assessment conducted pursuant to subdivision 30, which plan shall include measurable goals and be updated
309 at least every five years to reflect changes in the Commonwealth's housing goals, and providing an annual
310 report to the General Assembly on progress toward meeting the goals identified in such plan and the
311 availability of housing that is accessible to people with disabilities.

312 32. Collecting reports submitted by localities pursuant to § 36-139.9 in any manner prescribed by the
313 Department, including any forms developed by the Department to collect the information required to be
314 reported by the localities pursuant to such section and publishing such reports on its website.

315 33. *Establishing criteria to guide a board of zoning appeals in its decision-making process for an appeal*
316 *filed pursuant to subsection C of § 15.2-2209.4 and promulgate all necessary regulations. Such criteria or*
317 *regulations shall ensure that localities meet required growth targets and shall also establish a method for*
318 *giving extra weight, not to exceed 20 percent of the required target, to a locality's calculation of such targets*
319 *if they dedicate at least 10 percent of the new housing supply to affordable housing units and for the*
320 *rehabilitation of current, underutilized housing stock. The Department shall also promulgate regulations that*
321 *require localities to gather data specifying the number of new housing units proposed by submitted*
322 *applications, the number of such units approved, and the number of housing units constructed over a*
323 *specified time frame, as well as the number of existing housing units in the locality. Such data shall be*
324 *submitted to the Department for purposes of transparency and to ensure compliance with the required growth*
325 *targets.*

326 34. Carrying out such other duties as may be necessary and convenient to the exercise of powers granted
327 to the Department.