

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 15.2-2201 and 36-139.9 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 15.2-2292.3, relating to expedited approval for certain affordable housing developments.

[H 594]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-2201 and 36-139.9 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 15.2-2292.3 as follows:

§ 15.2-2201. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Affordable housing" means, as a guideline, housing that is affordable to households with incomes at or below the area median income, provided that the occupant pays no more than thirty percent of his gross income for gross housing costs, including utilities. For the purpose of administering affordable dwelling unit ordinances or expediting affordable housing ordinances authorized by this chapter, local governments may establish individual definitions of affordable housing and affordable dwelling units including determination of the appropriate percent of area median income and percent of gross income.

"Conditional zoning" means, as part of classifying land within a locality into areas and districts by legislative action, the allowing of reasonable conditions governing the use of such property, such conditions being in addition to, or modification of the regulations provided for a particular zoning district or zone by the overall zoning ordinance.

"Designated agent" means any agent employed or authorized by a locality and designated by the governing body to review and act on subdivision plats, site plans, and plans of development. "Designated agent" does not include the local planning commission. However, the local planning commission may serve as the designated agent of any locality with a population of 5,000 or less.

"Development" means a tract of land developed or to be developed as a unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units. The term "development" shall not be construed to include any tract of land which will be principally devoted to agricultural production.

"Historic area" means an area containing one or more buildings or places in which historic events occurred or having special public value because of notable architectural, archaeological or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation.

"Incentive zoning" means the use of bonuses in the form of increased project density or other benefits to a developer in return for the developer providing certain features, design elements, uses, services, or amenities desired by the locality, including but not limited to, site design incorporating principles of new urbanism and traditional neighborhood development, environmentally sustainable and energy-efficient building design, affordable housing creation and preservation, and historical preservation, as part of the development.

"Local planning commission" means a municipal planning commission or a county planning commission.

"Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under jurisdiction of the U.S. Department of Defense, including any leased facility, or any land or interest in land owned by the Commonwealth and administered by the Adjutant General of Virginia or the Virginia Department of Military Affairs. "Military installation" does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

"Mixed use development" means property that incorporates two or more different uses, and may include a variety of housing types, within a single development.

"Official map" means a map of legally established and proposed public streets, waterways, and public areas adopted by a locality in accordance with the provisions of Article 4 (§ 15.2-2233 et seq.) hereof.

"Planned unit development" means a form of development characterized by unified site design for a variety of housing types and densities, clustering of buildings, common open space, and a mix of building types and land uses in which project planning and density calculation are performed for the entire development rather than on an individual lot basis.

"Planning district commission" means a regional planning agency chartered under the provisions of Chapter 42 (§ 15.2-4200 et seq.) of this title.

"Plat" or "plat of subdivision" means the schematic representation of land divided or to be divided and information in accordance with the provisions of §§ 15.2-2241, 15.2-2242, 15.2-2258, 15.2-2262, and

15.2-2264, and other applicable statutes.

"Preliminary subdivision plat" means the proposed schematic representation of development or subdivision that establishes how the provisions of §§ 15.2-2241 and 15.2-2242, and other applicable statutes will be achieved.

"Resident curator" means a person, firm, or corporation that leases or otherwise contracts to manage, preserve, maintain, operate, or reside in a historic property in accordance with the provisions of § 15.2-2306 and other applicable statutes.

"Site plan" means the proposal for a development or a subdivision including all covenants, grants or easements and other conditions relating to use, location and bulk of buildings, density of development, common open space, public facilities and such other information as required by the subdivision ordinance to which the proposed development or subdivision is subject.

"Special exception" means a special use that is a use not permitted in a particular district except by a special use permit granted under the provisions of this chapter and any zoning ordinances adopted herewith.

"Street" means highway, street, avenue, boulevard, road, lane, alley, or any public way.

"Subdivision," unless otherwise defined in an ordinance adopted pursuant to § 15.2-2240, means the division of a parcel of land into three or more lots or parcels of less than five acres each for the purpose of transfer of ownership or building development, or, if a new street is involved in such division, any division of a parcel of land. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided and solely for the purpose of recordation of any single division of land into two lots or parcels, a plat of such division shall be submitted for approval in accordance with § 15.2-2258. Nothing in this definition, section, nor any ordinance adopted pursuant to § 15.2-2240 shall preclude different owners of adjacent parcels from entering into a valid and enforceable boundary line agreement with one another so long as such agreement is only used to resolve a bona fide property line dispute, the boundary adjustment does not move by more than 250 feet from the center of the current platted line or alter either parcel's resultant acreage by more than five percent of the smaller parcel size, and such agreement does not create an additional lot, alter the existing boundary lines of localities, result in greater street frontage, or interfere with a recorded easement, and such agreement shall not result in any nonconformity with local ordinances and health department regulations. Notice shall be provided to the zoning administrator of the locality in which the parcels are located for review. For any property affected by this definition, any division of land subject to a partition suit by virtue of order or decree by a court of competent jurisdiction shall take precedence over the requirements of Article 6 (§ 15.2-2240 et seq.) and the minimum lot area, width, or frontage requirements in the zoning ordinance so long as the lot or parcel resulting from such order or decree does not vary from minimum lot area, width, or frontage requirements by more than 20 percent. A copy of the final decree shall be provided to the zoning administrator of the locality in which the property is located.

"Variance" means, in the application of a zoning ordinance, a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

"Working waterfront" means an area or structure on, over, or adjacent to navigable waters that provides access to the water and is used for water-dependent commercial, industrial, or governmental activities, including commercial and recreational fishing; tourism; aquaculture; boat and ship building, repair, and services; seafood processing and sales; transportation; shipping; marine construction; and military activities.

"Working waterfront development area" means an area containing one or more working waterfronts having economic, cultural, or historic public value of such significance as to warrant development and reparation.

"Zoning" or "to zone" means the process of classifying land within a locality into areas and districts, such areas and districts being generally referred to as "zones," by legislative action and the prescribing and application in each area and district of regulations concerning building and structure designs, building and structure placement and uses to which land, buildings and structures within such designated areas and districts may be put.

§ 15.2-2292.3. Expedited approval for increased density for certain affordable housing developments.

A. A local governing body may by ordinance allow a zoning administrator to use an administrative process to approve rezoning applications for affordable housing developments, provided that:

1. At least 75 percent of housing units in the development are affordable housing;

2. The affordable housing development complies with all applicable provisions under the Virginia Fair Housing Law (§ 36-96.1 et seq.);

3. The affordable housing development is connected to a public or community water supply or sewage system; and

4. The affordable housing development is located within or adjacent to an area identified by the locality

that could support increased density development and provide access to services.

Such ordinance shall contain provisions that (i) allow administrative approval of increased housing density zoning usage for qualifying developments; (ii) articulate the minimum number of units per acre, maximum lot size, and height requirements for the affordable housing units; and (iii) require an annual report on the number of approved permits and units and the number of units that are built in accordance with the locality's ordinance.

B. No ordinance under this section shall be passed until after notice of an intention to propose such ordinance for passage has been advertised by reference twice, with the first notice being published no more than 28 days before and the second notice appearing no less than seven days before the date of the meeting referenced in the notice, in a newspaper having a general circulation in the locality. The publication shall include a statement that a copy of the full text of the ordinance is on file at the office of the clerk of the circuit court or the office of the chief administrative officer of the locality.

C. The Department of Housing and Community Development (the Department) may give a locality that has adopted an ordinance pursuant to this section priority for any grants or loans administered by the Department if such locality demonstrates to the satisfaction of the Department that its ordinance has met the provisions of this section.

§ 36-139.9. Local housing policy; report to Department.

A. Any locality with a population greater than 3,500 shall submit annually to the Department a report summarizing the adoption or amendment of any local policies, ordinances, or processes affecting the development and construction of housing during the preceding fiscal year. Such report shall contain a description of the following items and, if available, a reference to where additional information can be found on the locality's website:

1. Adoption or amendment of a local proffer policy enacted by the locality pursuant to § 15.2-2298, 15.2-2303, or 15.2-2303.1;

2. Adoption or amendment of any provisions of the zoning ordinance affecting the development, redevelopment, or construction of single-family or multifamily housing;

3. Adoption or amendment of any provisions of the subdivision ordinance affecting the development, redevelopment, or construction of single-family or multifamily housing;

4. Revisions to the comprehensive plan affecting the location, density, or character of single-family or multifamily housing;

5. Adoption or amendment of any ordinances, incentives, or policies designed to encourage the development, redevelopment, or construction of housing, including accessory dwelling unit ordinances, affordable dwelling unit ordinances pursuant to § 15.2-2304, 15.2-2305, or 15.2-2305.1, fee waivers, density bonuses, *expedited affordable housing ordinances pursuant to § 15.2-2292.3*, waiver or reduction of local parking requirements, new construction or rehabilitation tax incentives, and development standard modifications; and

6. Changes to any local fees associated with the reviewing, permitting, and construction of residential development activities.

B. Reports submitted by localities pursuant to this section shall be submitted to the Department annually by September 1 for the preceding fiscal year. Reports shall be submitted in accordance with any forms and requirements developed by the Department, in consultation with stakeholders. The Department shall make all reports available to the public on its website.