

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 15.2-2303.1 of the Code of Virginia, relating to zoning; development*
 3 *agreements in certain localities.*

4 [H 787]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 15.2-2303.1 of the Code of Virginia is amended and reenacted as follows:**8 **§ 15.2-2303.1. Development agreements in certain localities.**

9 A. In order to promote the public health, safety, and welfare and to encourage economic development
 10 consistent with careful planning, *any locality within Planning District 23 with a population between 245,000*
 11 *and 350,000 that has adopted a transfer of development rights ordinance pursuant to § 15.2-2316.2 or New*
 12 *Kent County may include in its zoning ordinance provisions for the governing body to enter into binding*
 13 *development agreements with any persons owning legal or equitable interests in real property in the*
 14 *locality if the property to be developed contains at least one thousand 1,000 acres or is located within (i) a*
 15 *receiving area of a transfer of development rights program and (ii) a tax increment financing district.*

16 B. Any such agreements shall be for the purpose of stimulating and facilitating economic growth in the
 17 *county locality*; shall not be inconsistent with the comprehensive plan at the time of the agreement's adoption,
 18 except as may have been authorized by existing zoning ordinances; and shall not authorize any use or
 19 condition inconsistent with the zoning ordinance or other ordinances in effect at the time the agreement is
 20 made, except as may be authorized by a variance, special exception or similar authorization. The agreement
 21 shall be authorized by ordinance, shall be for a term not to exceed fifteen years, and may be renewed by
 22 mutual agreement of the parties for successive terms of not more than ten years each. It may provide, among
 23 other things, for uses; the density or intensity of uses; the maximum height, size, setback and/or location of
 24 buildings; the number of parking spaces required; the location of streets and other public improvements; the
 25 measures required to control stormwater; the phasing or timing of construction or development; or any other
 26 land use matters. It may authorize the property owner to transfer to the *county locality* land, public
 27 improvements, money, or anything of value to further the purposes of the agreement or other public purposes
 28 set forth in the *county's locality's* comprehensive plan, but not as a condition to obtaining any permitted use
 29 or zoning. The development agreement shall not run with the land except to the extent provided therein, and
 30 the agreement may be amended or canceled in whole or in part by the mutual consent of the parties thereto or
 31 their successors in interest and assigns.

32 C. If, pursuant to the agreement, a property owner who is a party thereto and is not in breach thereof, (i)
 33 dedicates or is required to dedicate real property to the *county locality*, the Commonwealth or any other
 34 political subdivision or to the federal government or any agency thereof, (ii) makes or is required to make
 35 cash payments to the *county locality*, the Commonwealth or any other political subdivision or to the federal
 36 government or any agency thereof, or (iii) makes or is required to make public improvements for the *county*
 37 *locality*, the Commonwealth or any other political subdivision or for the federal government or any agency
 38 thereof, such dedication, payment, or construction therefor shall vest the property owner's rights under the
 39 agreement. If a property owner's rights have vested, neither any amendment to the zoning map for the subject
 40 property nor any amendment to the text of the zoning ordinance with respect to the zoning district applicable
 41 to the property which eliminates or restricts, reduces, or modifies the use; the density or intensity of uses; the
 42 maximum height, size, setback or location of buildings; the number of parking spaces required; the location
 43 of streets and other public improvements; the measures required to control stormwater; the phasing or timing
 44 of construction or development; or any other land use or other matters provided for in such agreement shall
 45 be effective with respect to such property during the term of the agreement unless there has been a mistake,
 46 fraud or change in circumstances substantially affecting the public health, safety or welfare.

47 D. Nothing in this section shall be construed to preclude, limit or alter the vesting of rights in accordance
 48 with existing law; authorize the impairment of such rights; or invalidate any similar agreements entered into
 49 pursuant to existing law.

ENROLLED

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