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HOUSE BILL NO. 922

Offered January 14, 2026

A BILL to amend and reenact § 15.2-735.1 of the Code of Virginia, relating to county manager plan of government; affordable dwelling unit ordinance.

Patron—Lopez

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-735.1 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-735.1. Affordable dwelling unit ordinance; permitting certain densities in the comprehensive plan.

A. In a county that provides in its comprehensive plan for the physical development within the county, adopted pursuant to § 15.2-2223, for densities of development ranging between a floor area ratio (FAR) of 1.0 FAR and 10.0 FAR, or greater, the governing body may adopt as part of its zoning ordinance requirements for the provision of (i) on-site or off-site "Affordable Dwelling Units," as defined herein, or (ii) a cash contribution to the county's affordable housing fund, in lieu of such units, in such amounts *commensurate to the value of on-site Affordable Dwelling Units* as set out herein, as a condition of the governing body's approval of a special exception application for residential, commercial, or mixed-use projects with a density equal to or greater than 1.0 FAR, or an equivalent density based on units per acre. Residential, commercial, or mixed-use projects with a density less than 1.0 FAR, or an equivalent density based on units per acre, shall be exempt from the requirements of this section and the county's zoning ordinance adopted pursuant to this section. The county's zoning ordinance requirements shall provide as follows:

1. Upon approval of a special exception application approving a residential, commercial, or mixed-use project with a density equal to or greater than 1.0 FAR, or an equivalent density based on units per acre, the applicant shall provide on-site Affordable Dwelling Units as part of the project the total gross square footage of which units shall be 5% of the amount of the gross floor area of the project that exceeds 1.0 FAR or an equivalent density based on units per acre. For purposes of this section, "applicant" shall mean the person or entity submitting a special exception application for approval of a residential, commercial or mixed-use project in the county and shall include the successors or assigns of the applicant.

2. As an alternative, upon approval of a special exception application approving a residential, commercial, or mixed-use project with a density equal to or greater than 1.0 FAR, or an equivalent density based on units per acre, the applicant may elect to provide any one of the following:

a. Affordable Dwelling Units shall be provided off-site at a location within one-half mile of any Metrorail Station for projects within a Metro Station Area as defined in the county's comprehensive plan, or within one-half mile of the residential, commercial, or mixed-use project for projects not within a Metro Station Area, as provided in the county's zoning ordinance, the total gross square footage of which units shall be 7.5% of the amount of the gross floor area of the project that is over 1.0 FAR or an equivalent density based on units per acre, or

b. Affordable Dwelling Units shall be provided off-site at any other locations in the county other than those provided in the county's zoning ordinance in accordance with subdivision a, the total gross square footage of which units shall be 10% of the amount of the gross floor area of the project that is over 1.0 FAR, or an equivalent density based on units per acre, or

c. A cash contribution to the county's affordable housing fund~~, which~~ *shall be indexed to the Consumer Price Index for Housing in the Washington-Arlington-Alexandria Metropolitan Statistical Area (MSA) as published by the Bureau of Labor Statistics and shall be adjusted annually based upon the January changes to such index for that year. A cash* contribution shall be calculated as follows for each of the below-described density tiers:

(1) ~~One and one-half dollars~~ *No less than $1.50* per square foot of gross floor area for the first tier of density between zero and 1.0 FAR, or an equivalent density based on units per acre.

(2) ~~Four dollars~~ *No less than $4* per square foot of gross floor area for the tier of density in residential projects between 1.0 FAR and 3.0 FAR, or an equivalent density based on units per acre, and ~~$4~~ *no less than $4* per square foot of gross floor area for the tier of density in commercial projects above 1.0 FAR.

(3) ~~Eight dollars~~ *No less than $8* per square foot of gross floor area for the tier of density in residential projects above 3.0 FAR, or an equivalent density based on units per acre.

(4) For mixed-use projects, cash contributions shall be calculated by applying the proportionate amount of commercial and residential gross floor area to each tier.

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~~The cash contribution shall be indexed to the Consumer Price Index for Housing in the Washington-Baltimore MSA as published by the Bureau of Labor Statistics and shall be adjusted annually based upon the January changes to such index for that year.~~ *The county may amend the cash contribution amounts in the zoning ordinance.*

3. The applicant shall provide the county manager or his designee, prior to the issuance of the first certificate of occupancy for the residential, commercial, or mixed-use project, a written plan of how the applicant proposes to address the provision of Affordable Dwelling Units or cash contribution as provided in this section and the provisions of the zoning ordinance adopted pursuant to this section. The county manager or his designee shall approve or disapprove the applicant's plan in writing within 30 days of receipt of the written proposal from the applicant. If the county manager or his designee disapproves of the applicant's plan, specific reasons for such disapproval shall be provided.

4. An applicant may submit a written plan to be considered by the governing body or its designee to address the provision of Affordable Dwelling Units or cash contribution as provided in this section and the provisions of the zoning ordinance adopted pursuant to this section that deviate from the requirements of this section and the ordinance. Any such deviations may be approved in accordance with the procedures established in the county's zoning ordinance, which procedures shall include a provision for an appeal to the governing body of any administrative decision relative to the written plan submitted by the applicant.

5. The ordinance adopted by the county pursuant to this section may provide that, in the discretion of the governing body and with the agreement of the applicant, at the time of consideration of the special exception application, the above requirements may be totally or partially substituted for other compelling public priorities established in plans, studies, policies, or other documents of the county.

6. Applications for a special exception approval of a residential, commercial, or mixed-use project that results in the demolition and rebuilding of an existing project shall be subject to the requirements of this section and the zoning ordinance adopted pursuant to this section at the time of redevelopment; however, only density that is replaced or rebuilt and any increased density shall be subject to the requirements. This section and the county's zoning ordinance adopted pursuant to this section shall not apply to rehabilitation or renovation of existing residential, commercial, or mixed-use projects, *provided that there is no change in use. Applications for a special exception approval for a change of use of an existing building from commercial to residential may be subject to an affordable housing requirement.*

7. For purposes of this section "Affordable Dwelling Unit" means units committed for a 30-year term as affordable to households with incomes at 60% of the area median income.

B. This section shall apply to an application for a special exception approval for a residential, commercial, or mixed-use project with a density provided for by the County's comprehensive plan designation for the property that is the subject matter of the application. This section shall further apply to such an application that requires rezoning of the property that is the subject matter of the application to permit a use provided for by the county's comprehensive plan designation for the subject property.

C. The ordinance adopted by the county pursuant to this section may provide that an application for approval of a special exception for a residential, commercial, or mixed-use project that requests an increase in density that exceeds the density provided for by the county's comprehensive plan designation for the property that is the subject matter of the application shall be subject to an affordable housing requirement in addition to the requirements of this section and the zoning ordinance adopted pursuant to this section.

D. The ordinance adopted by the county pursuant to this section or other provisions of law may provide that an application that requests to amend the county's comprehensive plan designation for the subject property to a higher density designation may be subject to an affordable housing requirement in addition to the requirements of this section and the zoning ordinance adopted pursuant to this section.

E. The ordinance adopted by the county pursuant to this section may provide that applications for a special exception approval for residential, commercial, or mixed-use projects that result in the elimination of existing units affordable to households with incomes equal to or below 80% of the area median income address replacement of the eliminated units as a condition of the governing body's approval of the special exception application.

F. With the exception of the authority under § 15.2-2304, this section establishes the legislative authority for the county to obtain Affordable Dwelling Units in exchange for the approval of a special exception application for a residential, commercial, or mixed-use project in the county, and a special exception may not be used in combination with any other provision of law in Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2 to obtain Affordable Dwelling Units from an applicant. Nothing in this section shall be construed to repeal the county's authority under any other provision of law.