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SENATE BILL NO. 1267

Offered January 10, 2007

Prefiled January 10, 2007

A BILL to amend and reenact § 15.2-2204 of the Code of Virginia, relating to advertisement of plans.

Patron—Herring

Referred to Committee on Local Government

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 contain a descriptive summary of the proposed action and a reference to 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 once a week for two successive weeks in some newspaper published or having general circulation in the locality; 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, not less than five days nor more than 21 days after the second advertisement appears in such newspaper. The local planning commission and governing body may hold a joint public hearing after public notice as set forth hereinabove. If a joint hearing is held, then public notice as set forth above need be given only by the governing body. The term "two successive weeks" as used in this paragraph shall mean that such notice shall be published at least twice in such newspaper with not less than six days elapsing between the first and second publication. After enactment of any plan, ordinance or amendment, further publication thereof shall not be required.

A party's actual notice of, or active participation in, the proceedings for which advertisement provided by this subsection is required, shall waive the right of that party to challenge the validity of the plan or ordinance, or amendment thereof, due to the insufficiency of, or an error in, the advertisement required by this subsection.

No person mailed written notice pursuant to subsection B may challenge the validity of the plan or ordinance, or amendment thereof, due to the insufficiency of, or an error in, the advertisement required by this subsection.

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 above required, 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 which 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. 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 above required, 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 provisions of Article 6 (§ 15.2-2240 et seq.) of this chapter where such lots are less than 11,500 square feet. One notice sent by first class mail to the

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59 last known address of such owner as shown on the current real estate tax assessment books or current
60 real estate tax assessment records shall be deemed adequate compliance with this requirement, provided
61 that a representative of the local commission shall make affidavit that such mailings have been made
62 and file such affidavit with the papers in the case. Nothing in this subsection shall be construed as to
63 invalidate any subsequently adopted amendment or ordinance because of the inadvertent failure by the
64 representative of the local commission to give written notice to the owner, owners or their agent of any
65 parcel involved.

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

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

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

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

84 D. When (i) a proposed comprehensive plan or amendment thereto, (ii) a proposed change in zoning
85 map classification, or (iii) an application for special exception for a change in use involves any parcel of
86 land located within 3,000 feet of a boundary of a military base, military installation, military airport,
87 excluding armories operated by the Virginia National Guard, or licensed public-use airport then, in
88 addition to the advertising and written notification as above required, written notice shall also be given
89 by the local commission, or its representative, at least 10 days before the hearing to the commander of
90 the military base, military installation, military airport, or owner of such public-use airport, and the
91 notice shall advise the military commander or owner of such public-use airport of the opportunity to
92 submit comments or recommendations.

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

100 F. Notwithstanding any contrary provision of law, general or special, any city with a population
101 between 200,000 and 210,000 which is required by this title or by its charter to publish a notice, may
102 cause such notice to be published in any newspaper of general circulation in the city.