

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 15.2-2201 of the Code of Virginia, relating to incentive zoning.

[S 791]

Approved

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2201 of the Code of Virginia is amended and reenacted 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 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.

"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 property 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 ~~within~~, *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.

"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 of subdivision" means the schematic representation of land divided or to be divided.

"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

58 division of a parcel of land. The term includes resubdivision and, when appropriate to the context, shall
59 relate to the process of subdividing or to the land subdivided and solely for the purpose of recordation
60 of any single division of land into two lots or parcels, a plat of such division shall be submitted for
61 approval in accordance with § 15.2-2258.

62 "Variance" means, in the application of a zoning ordinance, a reasonable deviation from those
63 provisions regulating the size or area of a lot or parcel of land, or the size, area, bulk or location of a
64 building or structure when the strict application of the ordinance would result in unnecessary or
65 unreasonable hardship to the property owner, and such need for a variance would not be shared
66 generally by other properties, and provided such variance is not contrary to the intended spirit and
67 purpose of the ordinance, and would result in substantial justice being done. It shall not include a
68 change in use which change shall be accomplished by a rezoning or by a conditional zoning.

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