

VIRGINIA ACTS OF ASSEMBLY -- 2009 SESSION

CHAPTER 438

An Act to amend and reenact §§ 17.7, 17.29, and 17.30 of Chapter 213 of the Acts of Assembly of 1960, which provided a charter for the City of Colonial Heights, relating to the effect of adoption of master plan and appeals and approvals of subdivision plats.

[H 1757]

Approved March 27, 2009

Be it enacted by the General Assembly of Virginia:

1. That §§ 17.7, 17.29, and 17.30 of Chapter 213 of the Acts of Assembly of 1960 are amended and reenacted as follows:

§ 17.7. Effect of Adoption of Master Plan.

(a) Whenever the commission shall have adopted a master plan for the city or one or more parts thereof, geographical, topographical or functional, and the master plan or such part or parts thereof shall have been approved by the council, and it has been certified and filed, as provided in the preceding section, then and thereafter no street, square, park or other public way, ground, open space, public building or structure, shall be constructed or authorized in the city or in the planned section or division thereof until and unless the general location, character and extent thereof has been submitted to and approved by the commission; and no public utility, whether publicly or privately owned, shall be constructed or authorized in the city or in the planned section or division thereof until and unless its general location, but not its character and extent, has been submitted to and approved by the commission, but such submission and approval shall not be necessary in the case of pipes or conduits in any existing street or proposed street, square, park or other public way, ground or open space, the location of which has been approved by the commission; and no ordinance giving effect to or amending the comprehensive zoning plan as provided in § 17.10 shall be adopted until it has been submitted to and approved by the commission. In case of disapproval in any of the instances enumerated above, the commission shall communicate its reason to the council which shall have the power to overrule such action by a recorded vote of not less than two-thirds of its entire membership. The failure of the commission to act within sixty days from the date of the official submission to it shall be deemed approval.

(b) ~~The~~ However, the widening, extension, narrowing, enlargement, vacation or change in the use of streets and other public ways, grounds and places within the city, as well as the acquisition by the city of any *improved or unimproved* land within or without the city for public purposes, or the sale of any *improved or unimproved* land then held by the city, shall be subject to similar approval, and in case the same is disapproved, such disapproval may be similarly overruled not be referred to or considered by the commission unless the council specifically makes such a referral to the commission and asks for its recommendation. If the council does make such a referral to the commission, the council subsequently shall act on the commission's recommendation by a majority vote of its members, or an affirmative vote of three-fourths of all members if required by the Constitution of this Commonwealth.

(c) ~~The foregoing provisions of this section shall not be deemed to apply to the~~ The pavement, repavement, reconstruction, improvement, drainage or other work in or upon any existing street or other existing public way shall not be submitted to the commission or otherwise considered by it.

§ 17.29. Appeals of preliminary subdivision plat approvals.

The planning commission shall be the platting commission of the city, and, as such, shall have control of the platting or subdivision of land within the city. From and after the date on which such regulations and restrictions become effective in the city, the owners of tracts of land to which such regulations and restrictions are applicable, who subdivide them into two or more lots, shall cause plats of such subdivision, in the form prescribed by the applicable regulations and restrictions, to be made and submitted to the city planning commission. It shall be the duty of such commission to consider such plat in the light of the regulations and restrictions applicable to the same and approve or disapprove the plat in accordance therewith. Before taking any action thereon, the city planning commission shall afford the owner and other interested parties an opportunity to be heard after such reasonable notice as may be provided in such regulations and restrictions. Failure to act on any plat for a period of forty-five days shall be deemed to constitute approval unless a petition in a proper court has been filed as hereinafter provided in this section. Approval shall be attested on that plat by the signature of the chairman or vice-chairman of the city planning commission. Consistent with applicable regulations and restrictions, the planning commission shall approve or disapprove all submitted preliminary subdivision plats. If a city council member believes that the planning commission has approved a preliminary subdivision plat in violation of a city ordinance, or arbitrarily or capriciously, he may, within 20 days of the commission's approval, appeal the commission's decision to the city council by filing a written appeal

with the city manager. The city manager or his designee shall give the subdivider notice of the appeal. The council, within a reasonable period of time, shall hold a hearing on the matter and affirm, modify or reverse the commission's decision. If the subdivider is aggrieved by the council's decision on the preliminary subdivision plat, he may appeal to the circuit court, subject to the same state code provisions that would apply if he was appealing a planning commission decision to the circuit court.

§ 17.30. Approval of final plat prerequisite to recordation; recordation prerequisite to sale of lots.

From and after the date on which such regulations and restrictions become effective in the city, no *final* plat of any subdivision to which such regulations and restrictions are applicable shall be received or recorded by the clerk of any court unless the plat has been approved as provided ~~in the preceding section~~ *by applicable law*. No owner of land in the city in which such regulations and restrictions are applicable, who has subdivided the same into two or more lots, shall sell or offer for sale any such lot by reference to or exhibition of or by the use of a plat of such subdivision or otherwise before the *final* plat of such subdivision has been approved as provided ~~in the preceding section~~ *by applicable law* and has been recorded in the office of the clerk of the court or courts in which a deed conveying such lot would be required to be recorded.