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SENATE BILL NO. 869

Offered January 12, 2011

Prefiled January 10, 2011

A *BILL to amend and reenact § 15.2-2223.1 of the Code of Virginia, relating to urban development areas.*

Patrons—Stuart; Delegate: Cole

Referred to Committee on Local Government

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2223.1 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-2223.1. Comprehensive plan to include urban development areas.

A. For purposes of this section:

"Commercial" means property devoted to usual and customary business purposes for the sale of goods and services and includes, but is not limited to, retail operations, hotels, motels and offices. "Commercial" does not include residential dwelling units, including apartments and condominiums; or agricultural or forestal production; ~~or~~. *A locality may, by ordinance, define the extent to which property devoted to manufacturing, processing, assembling, storing, warehousing, or distributing may be classified as commercial for purposes of this section.*

"Commission" means the Commission on Local Government.

"Developable acreage," solely for the purposes of calculating density within the urban development area, means ~~land that is not included in~~ *(i) existing all land except (i) parks, rights-of-way of arterial and collector streets, railways, and resource protection areas, and wetlands; (ii) land used by public utilities and (ii) other existing solely for utility services; (iii) public lands and facilities; (iv) land within a five-mile radius of a military base over which the United States enjoys exclusive federal jurisdiction; and (v) land designated by a branch of the armed forces of the United States as its overfly zone.*

"Population growth" means the difference in population from the next-to-latest to the latest decennial census year, based on population reported by the United States Bureau of the Census. In computing its population growth, a locality may exclude the inmate population of any new or expanded correctional facility that opened within the time period between the two censuses.

"Urban development area" means an area designated by a locality that is (i) appropriate for higher density development due to its proximity to transportation facilities, the availability of a public or community water and sewer system, or a developed area and (ii) to the extent feasible, to be used for redevelopment or infill development.

B. Every locality that has adopted zoning pursuant to Article 7 (§ 15.2-2280 et seq.) ~~of this chapter~~ and that (i) has a population of at least 20,000 and population growth of at least five percent or (ii) has population growth of 15 percent or more, shall, and any locality may, amend its comprehensive plan to incorporate one or more urban development areas.

1. The comprehensive plan of a locality having a population of less than 130,000 persons shall provide for urban development areas that are appropriate for development at a density on the developable acreage of at least four single-family residences, six townhouses, or 12 apartments, condominium units, or cooperative units per acre, and an authorized floor area ratio of at least 0.4 per acre for commercial development, or any proportional combination thereof.

2. The comprehensive plan of a locality having a population of 130,000 or more persons shall provide for urban development areas that are appropriate for development at a density on the developable acreage of at least eight single-family residences, 12 townhouses, or 24 apartments, condominium units, or cooperative units per acre, and an authorized floor area ratio of at least 0.8 per acre for commercial development, or any proportional combination thereof.

3. The urban development areas designated by a locality shall be sufficient to meet projected residential and commercial growth in the locality for an ensuing period of at least 10 but not more than 20 years, which may include phasing of development within the urban development areas. Where an urban development area in a county with the urban county executive form of government includes planned or existing rail transit, the planning horizon may be for an ensuing period of at least 10 but not more than 40 years. Future residential and commercial growth shall be based on official estimates of the Weldon Cooper Center for Public Service of the University of Virginia or official projections of the Virginia Employment Commission or the United States Bureau of the Census.

4. The boundaries and size of each urban development area shall be reexamined and, if necessary, revised every five years in conjunction with the review of the comprehensive plan and in accordance

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59 with the most recent available population growth estimates and projections.

60 5. The boundaries of each urban development area shall be identified in the locality's comprehensive
61 plan and shall be shown on future land use maps contained in such comprehensive plan.

62 6. The comprehensive plan shall incorporate principles of traditional neighborhood design in the
63 urban development area, which may include but need not be limited to (i) pedestrian-friendly road
64 design, (ii) interconnection of new local streets with existing local streets and roads, (iii) connectivity of
65 road and pedestrian networks, (iv) preservation of natural areas, (v) mixed-use neighborhoods, including
66 mixed housing types, with affordable housing to meet the projected family income distributions of future
67 residential growth, (vi) reduction of front and side yard building setbacks, and (vii) reduction of
68 subdivision street widths and turning radii at subdivision street intersections.

69 7. The comprehensive plan shall describe any financial and other incentives for development in the
70 urban development areas.

71 8. A portion of one or more urban development areas shall be designated as a receiving area for any
72 transfer of development rights program established by the locality.

73 C. No locality that has amended its comprehensive plan in accordance with this section shall limit or
74 prohibit development pursuant to existing zoning or shall refuse to consider any application for rezoning
75 based solely on the fact that the property is located outside the urban development area.

76 *D. Nothing in this section shall be construed to affect or impair the authority of a governing body
77 to accept proffered conditions which include provisions for timing or phasing of dedications, payments,
78 or improvements.*

79 ~~DE.~~ Any locality that would be required to amend its plan pursuant to subsection B that determines
80 that its plan accommodates growth in a manner consistent with subsection B, upon adoption of a
81 resolution describing such accommodation and describing any financial and other incentives for
82 development in the areas that accommodate such growth, shall not be required to further amend its plan
83 pursuant to subsection B. Any locality that has adopted a resolution certifying compliance with
84 subsection B prior to February 1, 2010, shall not be required to comply with this subsection until review
85 of the locality's comprehensive plan as provided for in provision 4 of subsection B.

86 ~~EF.~~ Localities shall consult with adjacent localities, as well as the relevant planning district
87 commission and metropolitan planning organization, in establishing the appropriate size and location of
88 urban development areas to promote orderly and efficient development of their region.

89 ~~EG.~~ Any county that amends its comprehensive plan pursuant to subsection B may designate one or
90 more urban development areas in any incorporated town within such county, if the council of the town
91 has also amended its comprehensive plan to designate the same areas as urban development areas with
92 at least the same density designated by the county. However, if a town has established an urban
93 development area within its corporate boundaries, the county within which the town is located shall not
94 include the town's projected population and commercial growth when initially determining or
95 reexamining the size and boundary of any other urban development area within the county.

96 ~~GH.~~ To the extent possible, federal, state and local transportation, housing, water and sewer facility,
97 economic development, and other public infrastructure funding for new and expanded facilities shall be
98 directed to the urban development area, or in the case of a locality that adopts a resolution pursuant to
99 subsection ~~DE~~, to the area that accommodates growth in a manner consistent with this section.

100 ~~HI.~~ Documents describing all urban development area designations, as well as any resolution adopted
101 pursuant to subsection ~~DE~~, together with associated written policies, zoning provisions and other
102 ordinances, and the capital improvement program shall be forwarded, electronically or by other means,
103 to the Commission within 90 days of the adoption or amendment of comprehensive plans and other
104 written policies, zoning provisions and other ordinances. The Commission shall annually report to the
105 Governor and General Assembly the overall compliance with this section including densities achieved
106 within each urban development area. Before preparing the initial report, the Commission shall develop
107 an appropriate format in concert with the relevant planning district commission. Other than the
108 documents, policies, zoning provisions and other ordinances, resolutions, and the capital improvement
109 program forwarded by the locality, the Commission shall not impose an additional administrative burden
110 on localities in preparing the annual report required by this subsection.

111 ~~IJ.~~ Any locality that becomes subject to provision 2 of subsection B shall have until July 1,
112 20122013, to amend its comprehensive plan in accordance with this section.

113 ~~JK.~~ Any locality that becomes subject to this section due to population growth shall have ~~two~~ three
114 years following the report of the United States Bureau of the Census made pursuant to P.L. 94-171 to
115 amend its comprehensive plan in accordance with this section.