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HOUSE BILL NO. 2806

Offered January 18, 2019

A BILL to amend and reenact §§ 15.2-1429 and 15.2-1433 of the Code of Virginia, relating to local government; codification of ordinances; affirmative defense.

Patron—LaRock

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-1429 and 15.2-1433 of the Code of Virginia are amended and reenacted as follows:
§ 15.2-1429. Penalties for violation of ordinances; affirmative defense.

A. Any locality may prescribe fines and other punishments for violations of ordinances, which shall be enforced by proceedings as if such violations were misdemeanors. However, no fine or term of confinement for the violation of ordinances shall exceed the penalties provided by general law for the violation of a Class 1 misdemeanor, and such penalties shall not exceed those penalties prescribed by general law for like offenses.

B. Any person who is the subject of an action brought by a locality for violation of an ordinance shall be entitled to assert as an affirmative defense that the ordinance was not codified as required by § 15.2-1433 and therefore not accessible to the public to provide adequate notice of the contents of the ordinance.

§ 15.2-1433. Codification and recodification of ordinances.

~~Any~~ Each locality ~~may~~ shall codify or recodify ~~any or~~ all of its ordinances, in permanently bound or loose-leaf form or in an online format, so as to be easily accessed by other governmental entities and by the public. Such ordinances may be changed, altered or amended by the governing body, and ordinances or portions thereof may be deleted and new material may be added by the governing body. Such changes, alterations, amendments or deletions and such new material shall become effective on the effective date of the codification or recodification.

Ordinances relating to zoning and the subdivision of land may be included in any codification or recodification of ordinances; however, no change, alteration, amendment, deletion or addition of a substantive nature shall be made and no new material of a substantive nature shall be added to such ordinances unless, prior to the date of adoption of such codification or recodification, notice of such proposed changes, alterations, amendments, deletions or additions shall be published as required by the Code of Virginia and public hearings held thereon as provided by the Code of Virginia for adoption and amendment of zoning and subdivision ordinances. Renumbering or rearranging of sections, articles or other divisions of any such ordinance shall not be deemed to be a change, alteration or amendment of a substantive nature.

Any such codification or recodification may be adopted by reference by a single ordinance, without further publication of such codification or recodification or any portions thereof. The ordinance adopting such codification or recodification shall comply with all laws of the Commonwealth and any provision of any city or town charter requiring posting or publication of ordinances or notice of intent to adopt ordinances. At least one copy of such codification or recodification or a complete set of printer's proofs of the text thereof shall be made available for public inspection in the office of the clerk of the governing body in which such codification or recodification is proposed to be adopted.

No ordinance levying or increasing taxes shall be enacted as new material in any such codification or recodification or amended in substance therein unless advertised in accordance with general law.

Supplements for such codifications or recodifications may be prepared from time to time at the direction of the governing body of the locality, either as units or on a replacement page basis; however, where replacement pages are prepared, a distinguishing mark or notation shall be placed on each replacement page to distinguish it from original pages and pages of other supplements. No further adoption procedure shall be required for supplements or replacement pages in which no substantive change is made in ordinances previously and validly adopted by the governing body of the locality. If changes, alterations, amendments, deletions or additions of a substantive nature are made in any such supplement, then such supplement shall be adopted by the governing body in the same manner provided by general or special law.

At least one copy of any codification or recodification adopted hereunder and at least one copy of every supplement thereto shall be kept in the office of the clerk of the governing body and shall there be available for public inspection during normal business hours.

Any codification or recodification adopted hereunder shall be admitted in evidence in all courts

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