

## VIRGINIA ACTS OF ASSEMBLY — CHAPTER

*An Act to amend and reenact § 15.2-2201 of the Code of Virginia, relating to planning; definition of subdivision; boundary line agreement.*

[H 1088]

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 tract of land 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, 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.

"Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under jurisdiction of the U.S. Department of Defense, including any leased facility, or any land or interest in land owned by the Commonwealth and administered by the Adjutant General of Virginia or the Virginia Department of Military Affairs. "Military installation" does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

"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" or "plat of subdivision" means the schematic representation of land divided or to be divided and information in accordance with the provisions of §§ 15.2-2241, 15.2-2242, 15.2-2258, 15.2-2262, and 15.2-2264, and other applicable statutes.

"Preliminary subdivision plat" means the proposed schematic representation of development or subdivision that establishes how the provisions of §§ 15.2-2241 and 15.2-2242, and other applicable statutes will be achieved.

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57 "Resident curator" means a person, firm, or corporation that leases or otherwise contracts to manage,  
 58 preserve, maintain, operate, or reside in a historic property in accordance with the provisions of  
 59 § 15.2-2306 and other applicable statutes.

60 "Site plan" means the proposal for a development or a subdivision including all covenants, grants or  
 61 easements and other conditions relating to use, location and bulk of buildings, density of development,  
 62 common open space, public facilities and such other information as required by the subdivision  
 63 ordinance to which the proposed development or subdivision is subject.

64 "Special exception" means a special use that is a use not permitted in a particular district except by a  
 65 special use permit granted under the provisions of this chapter and any zoning ordinances adopted  
 66 herewith.

67 "Street" means highway, street, avenue, boulevard, road, lane, alley, or any public way.

68 "Subdivision," unless otherwise defined in an ordinance adopted pursuant to § 15.2-2240, means the  
 69 division of a parcel of land into three or more lots or parcels of less than five acres each for the purpose  
 70 of transfer of ownership or building development, or, if a new street is involved in such division, any  
 71 division of a parcel of land. The term includes resubdivision and, when appropriate to the context, shall  
 72 relate to the process of subdividing or to the land subdivided and solely for the purpose of recordation  
 73 of any single division of land into two lots or parcels, a plat of such division shall be submitted for  
 74 approval in accordance with § 15.2-2258. *Nothing in this definition, section, nor any ordinance adopted*  
 75 *pursuant to § 15.2-2240 shall preclude different owners of adjacent parcels from entering into a valid*  
 76 *and enforceable boundary line agreement with one another so long as such agreement is only used to*  
 77 *resolve a bona fide property line dispute, the boundary adjustment does not move by more than 250 feet*  
 78 *from the center of the current platted line or alter either parcel's resultant acreage by more than five*  
 79 *percent of the smaller parcel size, and such agreement does not create an additional lot, alter the*  
 80 *existing boundary lines of localities, result in greater street frontage, or interfere with a recorded*  
 81 *easement, and such agreement shall not result in any nonconformity with local ordinances and health*  
 82 *department regulations. Notice shall be provided to the zoning administrator of the locality in which the*  
 83 *parcels are located for review. For any property affected by this definition, any division of land subject*  
 84 *to a partition suit by virtue of order or decree by a court of competent jurisdiction shall take*  
 85 *precedence over the requirements of Article 6 (§ 15.2-2240 et seq.) and the minimum lot area, width or*  
 86 *frontage requirements in the zoning ordinance so long as the lot or parcel resulting from such order or*  
 87 *decree does not vary from minimum lot area, width, or frontage requirements by more than 20 percent.*  
 88 *A copy of the final decree shall be provided to the zoning administrator of the locality in which the*  
 89 *property is located.*

90 "Variance" means, in the application of a zoning ordinance, a reasonable deviation from those  
 91 provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or  
 92 location of a building or structure when the strict application of the ordinance would unreasonably  
 93 restrict the utilization of the property, and such need for a variance would not be shared generally by  
 94 other properties, and provided such variance is not contrary to the purpose of the ordinance. It shall not  
 95 include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

96 "Working waterfront" means an area or structure on, over, or adjacent to navigable waters that  
 97 provides access to the water and is used for water-dependent commercial, industrial, or governmental  
 98 activities, including commercial and recreational fishing; tourism; aquaculture; boat and ship building,  
 99 repair, and services; seafood processing and sales; transportation; shipping; marine construction; and  
 100 military activities.

101 "Working waterfront development area" means an area containing one or more working waterfronts  
 102 having economic, cultural, or historic public value of such significance as to warrant development and  
 103 reparation.

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