

VIRGINIA ACTS OF ASSEMBLY -- 1997 SESSION

CHAPTER 738

An Act to amend the Code of Virginia by adding a section numbered 15.1-491.001, relating to development agreements.

[H 2643]

Approved March 22, 1997

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 15.1-491.001 as follows:

§ 15.1-491.001. Development agreements in certain counties.

A. In order to promote the public health, safety and welfare and to encourage economic development consistent with careful planning, any county with a population between 10,300 and 11,000 according to the 1990 United States Census through which an interstate highway passes may include in its zoning ordinance provisions for the governing body to enter into binding development agreements with any persons owning legal or equitable interests in real property in the county if the property to be developed contains at least one thousand acres.

B. Any such agreements shall be for the purpose of stimulating and facilitating economic growth in the county; shall not be inconsistent with the comprehensive plan at the time of the agreement's adoption, except as may have been authorized by existing zoning ordinances; and shall not authorize any use or condition inconsistent with the zoning ordinance or other ordinances in effect at the time the agreement is made, except as may be authorized by a variance, special exception or similar authorization. The agreement shall be authorized by ordinance, shall be for a term not to exceed fifteen years, and may be renewed by mutual agreement of the parties for successive terms of not more than ten years each. It may provide, among other things, for uses; the density or intensity of uses; the maximum height, size, setback and/or location of buildings; the number of parking spaces required; the location of streets and other public improvements; the measures required to control stormwater; the phasing or timing of construction or development; or any other land use matters. It may authorize the property owner to transfer to the county land, public improvements, money or anything of value to further the purposes of the agreement or other public purposes set forth in the county's comprehensive plan, but not as a condition to obtaining any permitted use or zoning. The development agreement shall not run with the land except to the extent provided therein, and the agreement may be amended or canceled in whole or in part by the mutual consent of the parties thereto or their successors in interest and assigns.

C. If, pursuant to the agreement, a property owner who is a party thereto and is not in breach thereof, (i) dedicates or is required to dedicate real property to the county, the Commonwealth or any other political subdivision or to the federal government or any agency thereof, (ii) makes or is required to make cash payments to the county, the Commonwealth or any other political subdivision or to the federal government or any agency thereof, or (iii) makes or is required to make public improvements for the county, the Commonwealth or any other political subdivision or for the federal government or any agency thereof, such dedication, payment or construction therefor shall vest the property owner's rights under the agreement. If a property owner's rights have vested, neither any amendment to the zoning map for the subject property nor any amendment to the text of the zoning ordinance with respect to the zoning district applicable to the property which eliminates or restricts, reduces, or modifies the use; the density or intensity of uses; the maximum height, size, setback or location of buildings; the number of parking spaces required; the location of streets and other public improvements; the measures required to control stormwater; the phasing or timing of construction or development; or any other land use or other matters provided for in such agreement shall be effective with respect to such property during the term of the agreement unless there has been a mistake, fraud or change in circumstances substantially affecting the public health, safety or welfare.

D. Nothing in this section shall be construed to preclude, limit or alter the vesting of rights in accordance with existing law; authorize the impairment of such rights; or invalidate any similar agreements entered into pursuant to existing law.