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HOUSE BILL NO. 1396

Offered January 26, 1998

A BILL to amend and reenact § 15.2-2286 of the Code of Virginia, relating to zoning.

Patrons—Hull, Hall, Ingram, Jackson, Keating, Orrock, Stump and Williams; Senators: Saslaw and Watkins

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:**1. That § 15.2-2286 of the Code of Virginia is amended and reenacted as follows:**

§ 15.2-2286. Permitted provisions in zoning ordinances; amendments; applicant to pay delinquent taxes.

A. A zoning ordinance may include, among other things, reasonable regulations and provisions as to any or all of the following matters:

1. For variances or special exceptions, as defined in § 15.2-2201, to the general regulations in any district.

2. For the temporary application of the ordinance to any property coming into the territorial jurisdiction of the governing body by annexation or otherwise, subsequent to the adoption of the zoning ordinance, and pending the orderly amendment of the ordinance.

3. For the granting of special exceptions under suitable regulations and safeguards; notwithstanding any other provisions of this article, the governing body of any locality may reserve unto itself the right to issue such special exceptions. Conditions imposed in connection with residential special use permits, wherein the applicant proposes affordable housing, shall be consistent with the objective of providing affordable housing. When imposing conditions on residential projects specifying materials and methods of construction or specific design features, the approving body shall consider the impact of the conditions upon the affordability of housing.

The governing body or the board of zoning appeals of any city with a population between 260,000 and 264,000 according to the 1990 United States Census may impose a condition upon any special exception relating to alcoholic beverage control licensees which provides that such special exception will automatically expire upon a change of ownership of the property, a change in possession, a change in the operation or management of a facility or upon the passage of a specific period of time.

4. For the administration and enforcement of the ordinance including the appointment or designation of a zoning administrator who may also hold another office in the locality. The zoning administrator shall have all necessary authority on behalf of the governing body to administer and enforce the zoning ordinance. His authority shall include (i) ordering in writing the remedying of any condition found in violation of the ordinance; (ii) insuring compliance with the ordinance, bringing legal action, including injunction, abatement, or other appropriate action or proceeding subject to appeal pursuant to § 15.2-2311; and (iii) in specific cases, making findings of fact and, with concurrence of the attorney for the governing body, conclusions of law regarding determinations of rights accruing under § 15.2-2307.

Where provided by ordinance, the zoning administrator may be authorized to grant a variance from any building setback requirement contained in the zoning ordinance if the administrator finds in writing that: (i) the strict application of the ordinance would produce undue hardship; (ii) such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and (iii) the authorization of the variance will not be of substantial detriment to adjacent property and the character of the zoning district will not be changed by the granting of the variance. Prior to the granting of a variance, the zoning administrator shall give, or require the applicant to give, all adjoining property owners written notice of the request for variance, and an opportunity to respond to the request within twenty-one days of the date of the notice. If any adjoining property owner objects to said request in writing within the time specified above, the request shall be transferred to the Board of Zoning Appeals for decision.

The zoning administrator shall respond within sixty days of a request for a decision or determination on zoning matters within the scope of his authority. If the zoning administrator fails to make a decision or determination within sixty days, the requester may seek a decision or determination from the board of zoning appeals in accordance with § 15.2-2311.

5. For the imposition of penalties upon conviction of any violation of the zoning ordinance. Any such violation shall be a misdemeanor punishable by a fine of not less than \$10 nor more than \$1,000. If the violation is uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with the zoning ordinance, within a time period established by the

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60 court. Failure to remove or abate a zoning violation within the specified time period shall constitute a
61 separate misdemeanor offense punishable by a fine of not less than \$10 nor more than \$1,000, and any
62 such failure during any succeeding thirty-day period shall constitute a separate misdemeanor offense for
63 each thirty-day period punishable by a fine of not less than \$10 nor more than \$1,000.

64 6. For the collection of fees to cover the cost of making inspections, issuing permits, advertising of
65 notices and other expenses incident to the administration of a zoning ordinance or to the filing or
66 processing of any appeal or amendment thereto.

67 7. For the amendment of the regulations or district maps from time to time, or for their repeal.
68 Whenever the public necessity, convenience, general welfare, or good zoning practice require, the
69 governing body may by ordinance amend, supplement, or change the regulations, district boundaries, or
70 classifications of property. Any such amendment may be initiated (i) by resolution of the governing
71 body, (ii) by motion of the local planning commission, or (iii) by petition of the owner, contract
72 purchaser with the owner's written consent, or the owner's agent therefor, of the property which is the
73 subject of the proposed zoning map amendment, addressed to the governing body or the local planning
74 commission, who shall forward such petition to the governing body; however, the ordinance may
75 provide for the consideration of proposed amendments only at specified intervals of time, and may
76 further provide that substantially the same petition will not be reconsidered within a specific period, not
77 exceeding one year. Any such resolution or motion by such governing body or commission proposing
78 the rezoning shall state the above public purposes therefor.

79 In any county having adopted such zoning ordinance, all motions, resolutions or petitions for
80 amendment to the zoning ordinance, and/or map shall be acted upon and a decision made within such
81 reasonable time as may be necessary which shall not exceed twelve months unless the applicant requests
82 or consents to action beyond such period or unless the applicant withdraws his motion, resolution or
83 petition for amendment to the zoning ordinance or map, or both. In the event of and upon such
84 withdrawal, processing of the motion, resolution or petition shall cease without further action as
85 otherwise would be required by this subdivision.

86 8. For the submission and approval of a plan of development prior to the issuance of building
87 permits to assure compliance with regulations contained in such zoning ordinance.

88 9. For areas and districts designated for mixed use developments or planned unit developments as
89 defined in § 15.2-2201.

90 10. For the administration of incentive zoning as defined in § 15.2-2201.

91 B. Prior to the initiation of an application for a special exception, special use permit, variance,
92 rezoning or other land use permit, or prior to the issuance of final approval, the authorizing body may
93 require the applicant to produce satisfactory evidence that any delinquent real estate taxes owed to the
94 locality which have been properly assessed against the subject property have been paid.