CHAPTER 531

An Act to amend and reenact § 15.2-2306 of the Code of Virginia, relating to preservation of historic sites.

[S 1457]

Approved April 7, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2306 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-2306. Preservation of historical sites and architectural areas.

A. 1. Any locality may adopt an ordinance setting forth the historic landmarks within the locality as established by the Virginia Board of Historic Resources, and any other buildings or structures within the locality having an important historic, architectural, archaeological or cultural interest, any historic areas within the locality as defined by § 15.2-2201, and areas of unique architectural value located within designated conservation, rehabilitation or redevelopment districts, amending the existing zoning ordinance and delineating one or more historic districts, adjacent to such landmarks, buildings and structures, or encompassing such areas, or encompassing parcels of land contiguous to arterial streets or highways (as designated pursuant to Title 33.2, including § 33.2-319 of that title) found by the governing body to be significant routes of tourist access to the locality or to designated historic landmarks, buildings, structures or districts therein or in a contiguous locality. A governing body may provide in the ordinance that the applicant must submit documentation that any development in an area of the locality of known historical or archaeological significance will preserve or accommodate the historical or archaeological resources. An amendment of the zoning ordinance and the establishment of a district or districts shall be in accordance with the provisions of Article 7 (§ 15.2-2280 et seq.) of this chapter. The governing body may provide for a review board to administer the ordinance and may provide compensation to the board. The ordinance may include a provision that no building or structure, including signs, shall be erected, reconstructed, altered or restored within any such district unless approved by the review board or, on appeal, by the governing body of the locality as being architecturally compatible with the historic landmarks, buildings or structures therein.

2. Subject to the provisions of subdivision 3 of this subsection the governing body may provide in the ordinance that no historic landmark, building or structure within any district shall be razed, demolished or moved until the razing, demolition or moving thereof is approved by the review board, or, on appeal, by the governing body after consultation with the review board.

3. The governing body shall provide by ordinance for appeals to the circuit court for such locality from any final decision of the governing body pursuant to subdivisions 1 and 2 of this subsection and shall specify therein the parties entitled to appeal the decisions, which parties shall have the right to appeal to the circuit court for review by filing a petition at law, setting forth the alleged illegality of the action of the governing body, provided the petition is filed within thirty days after the final decision is rendered by the governing body. The filing of the petition shall stay the decision of the governing body pending the outcome of the appeal to the court, except that the filing of the petition shall not stay the decision of the governing body if the decision denies the right to raze or demolish a historic landmark, building or structure. The court may reverse or modify the decision of the governing body, in whole or in part, if it finds upon review that the decision of the governing body is contrary to law or that its decision is arbitrary and constitutes an abuse of discretion, or it may affirm the decision of the governing body.

In addition to the right of appeal hereinabove set forth, the owner of a historic landmark, building or structure, the razing or demolition of which is subject to the provisions of subdivision 2 of this subsection, shall, as a matter of right, be entitled to raze or demolish such landmark, building or structure provided that: (i) he has applied to the governing body for such right, (ii) the owner has for the period of time set forth in the same schedule hereinafter contained and at a price reasonably related to its fair market value, made a bona fide offer to sell the landmark, building or structure, and the land pertaining thereto, to the locality or to any person, firm, corporation, government or agency thereof, or political subdivision or agency thereof, which gives reasonable assurance that it is willing to preserve and restore the landmark, building or structure and the land pertaining thereto, and (iii) no bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such landmark, building or structure, and the land pertaining thereto, prior to the expiration of the applicable time period set forth in the time schedule hereinafter contained. Any appeal which may be taken to the court from the decision of the governing body, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from shall not affect the right of the owner to make the bona fide offer to sell referred to above. No offer to sell shall

be made more than one year after a final decision by the governing body, but thereafter the owner may renew his request to the governing body to approve the razing or demolition of the historic landmark, building or structure. The time schedule for offers to sell shall be as follows: three months when the offering price is less than $25,000; four months when the offering price is $25,000 or more but less than $40,000; five months when the offering price is $40,000 or more but less than $55,000; six months when the offering price is $55,000 or more but less than $75,000; seven months when the offering price is $75,000 or more but less than $90,000; and twelve months when the offering price is $90,000 or more.

4. The governing body is authorized to acquire in any legal manner any historic area, landmark, building or structure, land pertaining thereto, or any estate or interest therein which, in the opinion of the governing body should be acquired, preserved and maintained for the use, observation, education, pleasure and welfare of the people; provide for their renovation, preservation, maintenance, management and control as places of historic interest by a department of the locality or by a board, commission or agency specially established by ordinance for the purpose; charge or authorize the charging of compensation for the use thereof or admission thereto; lease, subject to such regulations as may be established by ordinance, any such area, property, lands or estate or interest therein so acquired upon the condition that the historic character of the area, landmark, building, structure or land shall be preserved and maintained; or to enter into contracts with any person, firm or corporation for the management, preservation, maintenance or operation of any such area, landmark, building, structure, land pertaining thereto or interest therein so acquired as a place of historic interest; however, the locality shall not use the right of condemnation under this subsection unless the historic value of such area, landmark, building, structure, land pertaining thereto, or estate or interest therein is about to be destroyed.

The authority to enter into contracts with any person, firm or corporation as stated above may include the creation, by ordinance, of a resident curator program such that private entities through lease or other contract may be engaged to manage, preserve, maintain, or operate, including the option to reside in, any such historic area, property, lands, or estate owned or leased by the locality. Any leases or contracts entered into under this provision shall require that all maintenance and improvement be conducted in accordance with established treatment standards for historic landmarks, areas, buildings, and structures. For purposes of this section, leases or contracts that preserve historic landmarks, buildings, structures, or areas are deemed to be consistent with the purposes of use, observation, education, pleasure, and welfare of the people as stated above so long as the lease or contract provides for reasonable public access consistent with the property's nature and use. The Department of Historic Resources shall provide technical assistance to local governments, at their request, to assist in developing resident curator programs.

B. Notwithstanding any contrary provision of law, general or special, in the City of Portsmouth no approval of any governmental agency or review board shall be required for the construction of a ramp to serve the handicapped at any structure designated pursuant to the provisions of this section.

C. Any locality that establishes or expands a local historic district pursuant to this section shall identify and inventory all landmarks, buildings, or structures in the areas being considered for inclusion within the proposed district. Prior to adoption of an ordinance establishing or expanding a local historic district, the locality shall (i) provide for public input from the community and affected property owners in accordance with § 15.2-2204; (ii) establish written criteria to be used to determine which properties should be included within a local historic district; and (iii) review the inventory and the criteria to determine which properties in the areas being considered for inclusion within the proposed district meet the criteria to be included in a local historic district. Local historic district boundaries may be adjusted to exclude properties along the perimeter that do not meet the criteria. The locality shall include only the geographical areas in a local historic district where a majority of the properties meet the criteria established by the locality in accordance with this section. However, parcels of land contiguous to arterial streets or highways found by the governing body to be significant routes of tourist access to the locality or to designated historic landmarks, buildings, structures, or districts therein, or in a contiguous locality may be included in a local historic district notwithstanding the provisions of this subsection.

D. Any locality utilizing the urban county executive form of government may include a provision in any ordinance adopted pursuant to this section that would allow public access to any such historic area, landmark, building, or structure, or land pertaining thereto, or providing that no subdivision shall occur within any historic district unless approved by the review board or, on appeal, by the governing body of the locality as being compatible with the historic nature of such area, landmarks, buildings, or structures therein with regard to any parcel or parcels that collectively are (i) adjacent to a navigable river and a national park and (ii) in part or as a whole subject to an easement granted to the National Park Service or Virginia Outdoors Foundation granted on or after January 1, 1973.

2. That an emergency exists and this act is in force from its passage.