

FUNDAMENTAL PLANNING AUTHORITY TERMS AND DEFINITIONS

The Comprehensive Plan

VA Code Cite: Section 15.2-2223 through 2232

In general, a **comprehensive plan can be defined as an official public document adopted by a local governing body that is used as a policy-guide to facilitate the orderly development of the community.** The plan is developed by examining existing conditions and needs, considering opportunities and alternatives, and adopting goals and objectives, which taken individually or collectively, will further the orderly development of the community. Suggestions or requirements for the comprehensive plan elements are listed. From this checklist of requirements and suggestions, the following legislative directives emerge for the comprehensive plan: 1) it should be general in nature; 2) it should envision the desired future of the community; 3) it should be comprehensive; 4) it should be well-grounded. The plan typically has a twenty-year horizon and, in some cases, local governments are using a longer horizon of up to fifty years for some or all elements of the plan. The legal status of the plan provides that after a local government adopts it, no street, public area, public building, or utility facility that is not shown on the plan shall be constructed, established, or authorized unless and until its general location, character, and extent have been approved by the local planning commission a being substantially in accord with the adopted plan. Once adopted, the plan shall be reviewed by the local planning commission every five years to determine whether it is advisable to amend the plan. **A plan's recommendations are implemented through the various mandatory or discretionary authorities available to localities, including the preparation of an official map, a capital improvements program, and zoning, subdivision ordinances, and other development ordinances.**

Comprehensive plans are perhaps the single most important land use tool available to local governments to guide decision making in land use matters, and have been have been **mandatory in Virginia for all jurisdictions since 1980.**

The Official Map

VA Code Cite: 15.2-2233 through 2238

The local planning commission may make or cause to be made an official map showing the location of any legally established public street, alley, walkway, waterway, and public area; and, any future or proposed public street alley, walkway, waterway and public area. No future or proposed street or street line, waterway, nor public area shall be shown on an official map unless or until the centerline or metes and bounds of such have been fixed or determined in relation to known, fixed and permanent monuments by a physical survey or aerial photographic survey thereof. In addition to the centerline of each street, the map shall indicate the width of the right-of-way thereof. Once an official map is adopted, the local governing body may acquire in any way permitted by law property which is or may be needed for construction of any street, alley, walkway, waterway or public area shown on the map. The governing body may amend the map by ordinance and it shall be reviewed within five years of the date of adoption. Neither the official map nor any additions to or modifications thereof shall be of effective for more than five years after adoption unless readopted. With the exception of those counties and cities, which have withdrawn their roads from the secondary system of state highways, the local planning commission shall consult with the Commonwealth Transportation Board during the preparation of the official map, prior to

recommendation of the map to the governing body, and the adopted official map shall be sent to the Board.

Capital Improvement Programs

VA Code Cite: 15.2-2239

The local planning commission may, and at the direction of the governing body, shall prepare and revise annually a capital improvement program based on the comprehensive plan for a period not to exceed the ensuing five years. The commission shall submit the program annually to the governing body, or to the chief administrative officer or other official charged with preparation of the budget for the locality. The capital improvement program shall include the commission's recommendations, and estimates of cost of the facilities and the means of financing them, to be undertaken in the ensuing fiscal year and in a period not to exceed the next four years, as the basis of the capital budget for the locality. The commission shall consult with the chief administrative officer or other executive head of government of the locality, the heads of departments and interested citizens and organizations, and shall hold such public hearings as it deems necessary.

Land Subdivision and Development

VA Code Cite: Section 15.2-2240 through 2279

The governing body of every locality shall adopt an ordinance to assure the orderly subdivision of land and its development, as recommended to it by the local planning commission and following a public hearing. Such ordinance shall include reasonable regulations and provisions that apply to: plat details meeting the standards of the Virginia Public Records Act; coordination of streets within and contiguous to the subdivision with other existing or planned streets within the general area; adequate provisions for drainage and flood control and other public purposes, and for light and air, and identifying soil characteristics; extent and manner to which streets shall be graded or otherwise improved and water and storm, and sanitary sewer and other public utilities or other communities facilities are to be installed; for the acceptance of dedication for public use of any right-of-way located within the subdivision, any other improvement dedicated for public use, and associated performance sureties for such; for conveyance of common or shared easements to franchise utilities; for monuments of specific types to be installed establishing street and property lines; recordation deadlines for approved final plats; administration and enforcement of such ordinance; family subdivision provisions; and, partial and final release of performance surety. Optional provisions of the subdivision ordinance are also set forth. Administration and enforcement of regulations contained within the subdivision ordinance are vested in the governing body of the locality in which the improvements are or will be located. Procedures are also set forth for vacation of plats.

Site plans or plans of development, which are required to be submitted and approved in accordance with permitted provisions in zoning ordinances, shall be subject to the provisions set forth in this Section.

Zoning

VA Code Cite: 15.2-2280 through 2316

Any locality may, by ordinance, classify the territory under its jurisdiction or any substantial portion thereof into districts of such number, shape and size as it may deem best suited to carry out the purpose of zoning, **and in each district it may regulate, restrict, permit, prohibit and determine: 1) the use of**

land, buildings, structure and other premises for agricultural, business, industrial, residential, flood plain and other specific uses; 2) **the size, height, area, bulk, location**, erection, construction, reconstruction, alteration, repair, maintenance, razing or removal of structures; 3) **areas and dimensions of land, water and air space to be occupied by buildings, structures and uses**, and of areas to be left unoccupied by uses and structures, including variations in sizes of lots based on whether a public or community water supply or sewer system is available and used; or 4) **the excavation or mining of soil or other natural resources**.

Zoning ordinances shall be for the general purpose of promoting the health, safety or general welfare of the public and of further accomplishing the objectives of the declaration of legislative intent in Section 15.2-2200. The planning commission, at the discretion of the local governing body shall prepare a proposed zoning ordinance, including a map showing the division of the territory into districts, and the commission shall hold at least one public hearing on a proposed ordinance or any amendment thereto. A Board of Zoning Appeals is established by the Circuit Court to hear appeals of zoning decisions rendered by the Zoning Administrator or non-administrative variance requests. Provisions for enforcement and penalties are established.

Conditional zoning is enabled where competing and incompatible uses conflict and traditional zoning methods and procedures are inadequate. In these cases, more flexible and adaptable zoning methods are needed to permit differing land use and, at the same time, to recognize effects of change. Sections 15.2-2296 through 15.2-2300 provide a more flexible and adaptable method to cope with situations found in such zones through condition zoning, whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community that are not generally applicable to land similarly zoned. The purpose of this section shall not be used for discrimination in housing.

- 15.2-2297: Conditions as part of a rezoning or amendment to zoning map

A zoning ordinance may include and provide for the voluntary proffering in writing, by the owner, of reasonable conditions, prior to or during a public hearing before the governing body, in addition to the regulations provided for the zoning district or zone by the ordinance, provided that (i) the rezoning itself must give rise to the need for the conditions; (ii) the conditions shall have a reasonable relation to the rezoning; (iii) **the conditions shall not include a cash contribution to the locality**; (iv) the conditions shall not include mandatory dedication of real or personal property for open space, parks, schools, fire departments or other public facilities; (v) the conditions shall not include a requirement that the applicant create a property owners' association which includes an express further condition that the owners' association pay an assessment for maintenance of public facilities owned in fee by a public entity; (vi) the conditions shall not include payment for or construction of off-site improvements; (vii) no condition shall be proffered that is not related to the physical development or operation of the property; and (viii) all such conditions shall be in conformity with the comprehensive plan.

- 15.2-2298: Additional conditions as part of rezoning or zoning map amendment **in certain high-growth localities**

Except for those localities to which Section 15.2-2303, this section shall apply to (i) any locality which has had population growth of 5% or more from the next-to-latest to latest decennial census year, based on population reported by the United States Bureau of the Census; (ii) any city adjoining such city or county; (iii) any towns located within such county; and (iv) any county contiguous with at least three such counties, and any town located in that county.

In any such locality, a zoning ordinance may include and provide for the voluntary proffering in writing, by the owner, of reasonable conditions, **may include the payment of cash** for any off-site road improvement or any off-site transportation improvement that is adopted as an amendment to the required comprehensive plan and incorporated into the capital improvements program, provided that nothing herein shall prevent a locality from accepting proffered conditions which are not normally included in a capital improvement program. For purposes of this section, "road improvement" includes construction of new roads or improvement or expansion of existing roads as required by applicable construction standards of the Virginia Department of Transportation to meet increased demand attributable to new development. For purposes of this section, "transportation improvement" means any real or personal property acquired, constructed, improved, or used for constructing, improving, or operating any (i) public mass transit system or (ii) highway, or portion or interchange thereof, including parking facilities located within a district created pursuant to this title. Such improvements shall include, without limitation, public mass transit systems, public highways, and all buildings, structures, approaches, and facilities thereof and appurtenances thereto, rights-of-way, bridges, tunnels, stations, terminals, and all related equipment and fixtures.

- 15.2-2303: Conditional zoning **in certain localities with urban county form of government and any city or county contiguous thereto**

- 15.2-2303.2: Disclosure of proffered cash payments and expenditures

The governing body of any locality accepting a cash payment voluntarily proffered pursuant to 15.2-2298 or 15.2-2303 shall report to the Commission on Local Government the aggregate amount of proffered cash payments collected, pledged but not collected, and expended by the localities, and an aggregate list of all public improvements on which such money was expended.

