

**ZONING, SUBDIVISION CONTROL,
AND PLANNING IN VIRGINIA**

**REPORT OF THE
VIRGINIA ADVISORY LEGISLATIVE COUNCIL**

to

THE GOVERNOR

and

THE GENERAL ASSEMBLY OF VIRGINIA



HO 7, 1962

COMMONWEALTH OF VIRGINIA
Department of Purchases and Supply
Richmond
1961

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THE VIRGINIA ADVISORY LEGISLATIVE COUNCIL

Richmond, Virginia, November 1, 1961

To:

HONORABLE J. LINDSAY ALMOND, JR., *Governor of Virginia*

and

THE GENERAL ASSEMBLY OF VIRGINIA

The Virginia Advisory Legislative Council, in a report made to the 1960 Session of the General Assembly, presented a bill to revise and consolidate into a single statute the various laws relating to the subjects of zoning, subdivision control, and planning which are now covered in Title 15 of the Code of Virginia. The Council did not advocate passage of the bill at that time but in its report stated that the bill needed more minute analysis and revision and to this end recommended a continuation of the study. Pursuant to this recommendation, the General Assembly of 1960 adopted a resolution directing further study of the subject, which was as follows:

HOUSE JOINT RESOLUTION NO. 89

Directing the Virginia Advisory Legislative Council to continue its study of the laws of the State relating to zoning and planning.

Whereas, the State of Virginia is becoming urbanized at an ever increasing pace, thus rendering it imperative to solve the problems created thereby in an orderly and efficient manner; and

Whereas, the laws relating to planning and zoning designed to insure orderly and efficient growth have not been revised generally since the same were first enacted, but have been amended from time to time as the exigencies of the then existing situation might dictate without regard to any comprehensive plan for the future; now, therefore, be it

Resolved by the House of Delegates, the Senate concurring, That the Virginia Advisory Legislative Council is hereby directed to continue its study of the Statutes of Virginia relating to planning and zoning, particularly those contained in Chapters 8 and 9 of Title 10 and Chapters 23, 24, and 25 of Title 15 of the Code of Virginia. All agencies of the State, the Department of Conservation and Economic Development in particular, shall assist the Council in this undertaking. The Council shall complete its study and make its report to the Governor and the General Assembly not later than November one, nineteen hundred sixty-one.

The Council selected Lewis A. McMurrin, Jr., of Newport News, member of the House of Delegates and member of the Council, to serve as

Chairman of a Committee to make the initial study and report to the Council. Selected to serve as members of the Committee with Mr. McMurrin were the following: Melvin W. Burnett, Executive Secretary, Chesterfield County, Chesterfield; John A. K. Donovan, Attorney and member of the Senate of Virginia, Falls Church; Horace H. Edwards, City Manager, City of Richmond; Allen H. Harrison, Jr., Attorney, Arlington; William B. Hopkins, Attorney and member of the Senate of Virginia, Roanoke; Carlton C. Massey, County Executive, Fairfax County, Fairfax; Willard J. Moody, Attorney and member of the House of Delegates, Portsmouth; Robert D. Morrison, City Manager, City of Lynchburg; William F. Parkerson, Jr., Commonwealth's Attorney, Henrico County; and Wendel L. Winn, Chairman, Tidewater Regional Planning Commission, Norfolk.

The Committee met and organized, electing Senator Donovan as Vice Chairman. John B. Boatwright, Jr., and Wildman S. Kincheloe, Jr., were appointed Secretary and Recording Secretary, respectively, to the Committee.

The proposed bill was carefully considered in detail and suggestions relating thereto were sought from persons having particular experience with or knowledge of the matters covered therein. The existing legislation was also reviewed, both those provisions in Chapters 23, 24 and 25 of Title 15 dealing with local activities in planning, zoning and subdivision control, and the provisions of Chapters 8 and 9 of Title 10 which are concerned with the Division of Industrial Development and Planning in the Department of Conservation and Economic Development and with the Advisory Council on the Virginia Economy.

Two public hearings were held, one of which was concerned with the effect of the suggested revisions of the zoning, planning and subdivision laws, and the other with the program for aiding the industrial development and planning work of both State and local agencies as well as private organizations by the provision of more adequate topographic mapping of those areas of the State now deficient in this coverage. Many helpful suggestions and much valuable information were received as a result of these hearings.

Based on its study, the Committee reported to the Council. The Council has carefully considered the report of the Committee, and makes the following recommendations:

RECOMMENDATIONS

1. That the present patchwork of multiple statutes relating to zoning, planning, and subdivision control, with special provisions applicable to various localities throughout the State, be revised and consolidated into a single statute to be effective throughout the State yet flexible enough to accord with local practices and meet local needs.

2. That a State agency—the Board of Conservation and Economic Development—be given limited zoning powers to protect places and areas of historic significance or interest by imposing restrictions on changes in uses of land in the vicinity.

3. That a program for completion of up-to-date topographic maps covering the entire State on an adequate scale (1:24,000, or 1 inch equals 2,000 feet, in 7½ minute quadrangles) be adopted as a goal, to be completed if possible, within the next three biennia; and that under such a

program attention first be given to the more highly urbanized areas of the State where industrial development appears to be most likely to occur.

4. That the State Highway Department be authorized to make special mapping flights, on request of local governing bodies, or local nonprofit private agencies concerned with industrial development, concurred in by the Department of Conservation and Economic Development, the cost to be borne by the requesting locality or agency assisted by the Department of Conservation and Economic Development to the extent of funds available.

ZONING, PLANNING AND SUBDIVISION CONTROL STATUTES

Even a cursory examination of the present statutes relating to these subjects will show unwarranted duplication and confusion in the various enactments during approximately the last forty years. For instance, in Chapter 23, dealing with streets and subdivisions of lands, there is a general article dealing with streets and alleys in cities and towns, followed by "The Virginia Land Subdivision Act" which is applicable in most of the State; but there are also statutes relating to subdivisions in or near cities of less than one hundred thousand population, which were adopted in 1928, and a parallel statute relating to subdivisions in or near towns, adopted in 1930, and a special statute applicable only in one county, which was adopted in 1946. Similarly, Chapter 24, dealing with zoning, contains an article as to zoning in cities and towns, a general article applicable to zoning in counties, and two special statutes which deal with only a few of the counties in the State. In Chapter 25, there are similar parallel provisions relating to planning in municipalities, in counties generally, and in one specific county.

Our examination of these several statutes does not indicate that there are any reasons for the relatively minor variations between them which are sufficiently compelling to outweigh the inevitable confusion which arises as a result of having them all on the statute books. We present herewith a bill which deals uniformly with counties and municipalities in all three of these major categories. However, we have been carefully mindful of the way the present statutes have operated in different places in the State and we feel that adoption of the proposed general bill will not prove either unduly burdensome to any locality or disruptive of the practices which are now being followed therein. In suggesting revisions to these laws, we have borne constantly in mind the protection of individual, constitutional and vested rights as well as the desirability of facilitating the orderly development of the several political subdivisions of the State.

We have attempted to clarify ambiguities which were noted in these statutes. As a result, we feel that the proposed bill will prove helpful in the activities of the various regional and local planning bodies and the governing bodies of the several political subdivisions.

PROTECTION OF HISTORIC SITES

The history of this nation began in Virginia in 1607 and within the borders of this Commonwealth are located many buildings and places which serve as continuous reminders of significant events in the development of our nation and of many individuals responsible for that development.

The importance of preserving these historic places and areas as sources of inspiration for young and old alike and in teaching our youth

to understand the present better through a consciousness of the past becomes more evident as time goes on. A number of our historic sites have been acquired by the Commonwealth, by the national government, and by various nonprofit agencies and groups interested in their preservation. But it has not been generally possible for these governments and groups to acquire a sufficient area of land surrounding the historic sites to insure that they will be preserved in their original settings and free from encroachments by incongruous and sometimes obnoxious evidences of commercial and industrial development. Lack of foresight in this connection has already resulted in many instances in the use of areas adjacent to historic sites for purposes which are inimicable to the reasons for their preservation.

The tourist industry is one of the major sources of income to the people of this State and there is accordingly a very direct economic concern to the State in assuring that nothing occurs which will detract from the attractiveness of such historic sites in drawing tourists to the State.

We believe that the State should have power to take reasonable steps to prevent future uses of land located close to historic sites which will not be in keeping with the purpose of their preservation. For this reason, we recommend a bill empowering the Board of Conservation and Economic Development, which is the State agency charged with fostering both economic development of the State as a whole and the tourist trade in particular, to adopt regulations regarding future land uses in the vicinity of places and areas of historic significance or interest. The proposed bill empowers the Board to issue such regulations but prescribes, for their adoption, the procedure set forth in the Administrative Agencies Act. This procedure provides advance notice to any person who might be interested in the adoption of such a regulation, and further gives an opportunity for interested parties to appear before the Board and make known their views with regard to such proposed regulations.

The bill provides for enforcement only by court procedure of regulations adopted by the Board, which will minimize any possibility for arbitrary or capricious action by the Board or its representatives. It requires that notice of the prospective effect of any such zoning by the Board upon lands which would be affected by the regulations, be given by recording of the regulations in the clerk's office of the locality in which they would be effective in the same manner as deeds to property are recorded, and further provides for the indexing thereof as to each individual parcel of land affected. As a final protection to landowners who would be subject to such regulations, it permits any such person, in case he is in doubt as to the use to which he plans to put his land, to challenge the action of the Board or its agent and have the matter determined by the local court of record.

The proposed bill does not affect any use to which land is being put at the time of the adoption of such a regulation; it is prospective only in its application.

We do not believe that the power, if granted to the Board of Conservation and Economic Development, would be frequently used. We do not believe that the selfish interests of a single individual or small group of individuals should be permitted to damage the overriding interest of the citizens of the State as a whole. We believe, therefore, that having this power in reserve would be desirable.

TOPOGRAPHIC MAPPING

Among the matters which the Council was directed by the General Assembly to study in relation to Zoning and Planning were the statutes contained in Chapter 8 of Title 10 of the Code. This chapter makes provision for a Division of Industrial Development and Planning in the Department of Conservation and Economic Development. We have not considered the internal organization of that Department, since that has been under study by the Commission to Study the State Government.

However, the Division of Industrial Development and Planning is charged with the responsibility, among others, of cooperating with localities, chambers of commerce, and other private or public groups in making available to prospective new industries basic information regarding industrial sites, and other pertinent factors of interest and concern to such industries. Upon making inquiry into this phase of the Division's responsibilities, the importance of the matter of topographic mapping became apparent.

Topographic maps show the configuration of land by contours, and the location of highways, secondary roads, streams, railroads, utility lines, and wooded areas. These maps greatly aid in detailed geologic studies and mineral resource evaluation studies, and are used by the mining industry, the petroleum industry, and in ground-water and surface-water studies. Data as to natural resources, terrain and transportation facilities, such as are shown on these maps, are essential in planning for development of existing industry and in attracting new industry, both of which are essential to maintenance of a sound and expanding economy in the State.

Topographic maps are prepared and printed by the Topographic Division of the United States Geological Survey. The programs for mapping areas of a state in this respect consist of a state-federal cooperative program in which funds are matched dollar for dollar, and also an independent federal program for which only federal funds are used. The present level of the cooperative mapping program in Virginia during the current biennium is at the rate of \$160,000 a year, \$80,000 of which is Virginia's share.

Obviously, maps made many years, and even decades, ago are inadequate, in that they not only do not reflect present physical features, but also are not prepared to a scale of 1:24,000, or 1 inch equals 2,000 feet, which is considered adequate for modern purposes.

The Department of Conservation and Economic Development advises that to date only approximately 11% of the State is covered by maps in 7½ minute quadrangles that meet "modern" map standards with an additional 13% now in progress under current programs, and an additional 4% in relatively modern maps that are suitable for revision to 7½ minute quadrangles. To complete coverage of the State after June 30, 1962, with such maps, including the completion of those in progress and those capable of revision, would require a six million three hundred thirty thousand dollar program, three million one hundred sixty-five thousand dollars of which would be the State's share. This program could be carried out efficiently over a period of six years. Following such a program, it is estimated that an annual continuation program at a cost of between \$130,000 and \$150,000 of which the State's share would be one-half would be required to keep these maps up to date.

As hereinbefore stated, the Committee held two public hearings, one of which was devoted exclusively to the matter of topographic mapping. Officials of the State Department of Conservation and Economic Development, including the Chairman of the Board, representatives of the Virginia

State Chamber of Commerce and of local chambers of commerce, heads of industrial departments of railroads operating in the State and of other industries, officials of local industrial development agencies, and of local and regional planning commissions, and city planning officials appeared on this occasion and gave testimony. These individuals were unanimous in urging that the State make available the necessary funds for early completion of full coverage of the entire area of the State by modern and adequate topographic maps. They all asserted that such maps are essential to an effort to attract new industries into a locality.

We are thoroughly in agreement with the views expressed to us in two respects. First, we concur as to the importance of the provision of adequate topographic map coverage of the State of Virginia to commerce and industry and to the economic health of the Commonwealth. It is impossible to demonstrate factually what the lack of maps has cost the State, although instances were cited to us of failure of some industries to locate in Virginia because other places could provide more information as to potential sites. There is no way of even estimating how many times industrial planners have simply overlooked Virginia sites because they had no information about them. However, the evidence presented to us indicates that this must have occurred many times.

Secondly, we agree that the present program is totally inadequate. We have been advised that the federal program contemplates a completion of the mapping of Virginia by the photogrammetric method in 7½ minute quadrangles, at a scale of 1:24,000, or 1 inch equals 2,000 feet, in twenty years. When it is realized that according to present estimates it will cost almost as much merely to keep maps up to date as the State and federal governments are now spending on the mapping program as a whole, it will readily be understood that reliance upon the federal government's twenty year plan would mean, in effect, that the State would not achieve the suggested goal of complete coverage with adequate maps until 1980 in all probability. A map made now of an area which is being rapidly developed for industrial or residential purposes would, in five years, reflect accurately only the basic terrain features and would for many purposes be almost entirely useless.

The total area of Virginia is, in round figures, 39,900 square miles. By June, 1962, 11,200 square miles will have been mapped or will have maps in progress under the modern photogrammetric method, leaving an area of approximately 28,700 square miles still to be covered in the program.

It should be mentioned that different types of maps are contemplated for different areas. In very hilly regions, for instance, a small contour interval would make a map almost unreadable, in addition to being prohibitively expensive to produce, whereas in the coastal plains, a much smaller contour interval is feasible and desirable. The proposed program contemplates the following contour intervals:

40' contours— 2,300 square miles
20' contours—14,000 square miles
10' contours—11,300 square miles
5' contours— 1,100 square miles

At the hearing on topographic mapping it was suggested that some localities in the Tidewater Area desired a one-foot contour interval map. This would be impractical on any widespread basis and the federal authorities would not participate in any such program. However, the State Highway Department does have mapping equipment and spokesmen for the Department stated that it might be possible for the Department to

make special flights to produce maps of this character for special engineering projects or for industrial promotion projects. We feel that this might be desirable and accordingly recommend enabling legislation to permit the Highway Department, upon the request of a local governing body or nonprofit agencies interested in industrial development, concurred in by the Department of Conservation and Economic Development, to make such maps or plats, the Highway Department being reimbursed for the cost thereof by the local governing body or agency making the request, with such help as the Department of Conservation and Economic Development is able to give.

The recommended program calls for the expenditure over a six-year period of approximately \$6,330,000 of combined State and federal funds.

The suggested allocation of these expenditures by years is set forth below:

1st year	\$ 650,000
2nd year	1,400,000
3rd year	1,600,000
4th year	1,600,000
5th year	900,000
6th year	180,000

We reiterate that we endorse the six-year program as a goal. We feel that there are few ways in which the State could more profitably invest these funds and that money spent in providing topographic maps as planned will shortly be returned to the State in taxes paid by industry, which will be the primary beneficiary of the mapping program.

In the carrying out of the program, however, we believe that a system of priorities should be established which would produce the greatest return for the money spent in the shortest time. Industry tends to locate in areas where the population insures an adequate labor supply and where necessary facilities and services can be readily provided. For this reason the major metropolitan areas would appear to be those to which first attention should be given. An additional reason which suggests this priority is the fact that in several of these areas existing maps are available which can be brought up-to-date at a much smaller cost than would be required for entirely new maps. Of the sixty-two quadrangles involved in the major metropolitan areas, twenty-nine have maps which can be brought up to date and only thirty-three would require new maps. The total cost of the program in these areas, including new maps and updated quadrangles, is \$578,940. To complete the program for the smaller metropolitan and city areas, on the other hand, will require the making of new maps for 145 out of the 163 quadrangles involved and only 18 are covered by maps which can be brought up to date. The cost of the program in these areas is \$1,712,200.

To complete the present cooperative mapping program currently in progress will require the expenditure of \$393,000 and to revise the relatively modern maps that are suitable for revision to 7½ minute quadrangles would cost an additional \$128,000. Of this total of \$521,000, one-half would be borne by the State.

While we do not believe that it is the function of the legislature to establish by statute priorities which should be fixed by the exercise of sound administrative judgment, we suggest that the above three programs be given priority in the detailed planning for the expenditure of such funds as are made available.

In the course of the study the opinion of the State Highway Department was obtained, since this Department would also be a beneficiary to some extent of what is done in the way of production of up-to-date maps.

The Department has its own airplane which it uses in mapping flights for its own purposes and, even were the whole program to be completed immediately, it would still be necessary, because of the type of maps needed by the Department, for it to continue to make most of its own maps. However, we were advised that since the Department would benefit from an acceleration of the mapping program, some highway funds could be made available to aid in this program. The estimate placed on the value of the program to the Department was \$25,000 a year and we recommend that the State Highway Commission make such funds available to the Department of Conservation and Economic Development for matching federal funds for this purpose.

Evidence was presented at the hearing which showed that many states in competition with Virginia have joined in the federal-state cooperative mapping program, and that many have completed their initial program and are now engaged in the revision of their "modern" maps. We do not feel that Virginia can afford to be second best in the tools which we can provide our citizens in furthering the desired industrial development of the Commonwealth.

CONCLUSION

We desire to thank the members of the Committee for their careful and thorough study of the subjects covered by this report; and further to express our appreciation to Messrs. Julian Tarrant, Chairman, Legislation Committee, Virginia Citizens Planning Association, A. Howe Todd, Director of City Planning, City of Richmond, Richard C. Dynes, Local Planning Chief, Department of Conservation and Economic Development, and Marvin C. Bowling, Jr., Assistant Chief Title Officer, Lawyers Title Insurance Corporation, for competent assistance and advice given the Committee during its deliberations; to Messrs. T. William Patterson and Edward E. McClure, Virginia Section, American Institute of Planners, for furnishing their helpful analysis of the 1960 bill; to the Jamestown Foundation, the Virginia Historical Society and the Association for the Preservation of Virginia Antiquities for calling our attention to the need for State zoning around historic places and areas; to Messrs. C. F. Fuechsel, Atlantic Region Engineer, United States Geologic Survey, Marvin M. Sutherland, Director, A. S. Rachal, Jr., Executive Assistant, and James L. Calver, Commissioner, Division of Mineral Resources, Department of Conservation and Economic Development, and H. H. Harris, State Highway Commissioner, for assistance in connection with our study of topographic mapping; and to those other citizens and public officials who took the time to appear at the public hearings and give the benefit of their suggestions.

Respectfully submitted,

ROBERT Y. BUTTON, Chairman
CHARLES K. HUTCHENS, Vice-Chairman
C. W. CLEATON
JOHN WARREN COOKE
JOHN H. DANIEL
TOM FROST
EDWARD M. HUDGINS
BALDWIN G. LOCHER
LEWIS A. McMURRAN, JR.
ARTHUR H. RICHARDSON
EDWARD E. WILLEY

STATEMENT OF J. D. HAGOOD AND MOSBY G. PERROW, JR.

We concur in many respects in the report and attached bill but there is one matter upon which we must take exception.

One of the bills authorizes the Department of Conservation and Economic Development to zone in and around historic places. This is said to be necessary on account of commercial operations which have threatened established areas of great historic importance; with this objective we agree. However, the bill in its present form would apply to the development of other areas which are not now developed or under development. Opinions differ greatly as to the importance of developing various sites and the relative importance of these sites from the standpoint of the history of Virginia and of the Nation.

Virginia is making a major attempt to attract new industry and her counties and cities are exerting every effort in this regard. The bill in our judgment, without some restrictions, could well impair our attempts to attract industry to Virginia or to expand existing industry; this is so because a site which has been acquired for industrial development, or an existing industry, could be prevented from being developed for industry or being used to enlarge an industrial operation. No one anticipates now that the bill would have this effect but we feel that we should guard against any such possibility. Accordingly, we recommend that the bill be amended by adding a provision to the effect that no regulation adopted under the act would be effective within one mile of any industrial establishment in use or under construction as of November 1, 1961.

J. D. Hagood
Mosby G. Perrow, Jr.

STATEMENT OF CHARLES R. FENWICK

I am in general agreement with the report and accompanying legislation. However, there is one matter to which I must take exception.

Article 5 provides for the official map; § 15-500 sets forth the matters which shall be shown upon the official map. This section requires the map to show not only existing but *future or proposed public streets and public areas*. After the map has been adopted, no building or zoning permit permitting the erection of a building can be issued unless a street giving access to the proposed structure has been placed on the map (§ 15-504). I am not opposed to this provision provided the public is adequately protected. I do not believe that under the provision for relief from this requirement as now proposed the public is adequately protected.

§ 15-504 also provides that no permit shall be issued for any building within the lines of any "street . . . or public area" which has been duly placed on the official map; provision is made for an appeal but this is a cumbersome and expensive procedure, with no assurance that it will prove of value.

Simple justice, in my opinion, dictates that if a person seeks a building permit to improve his property which lies within the lines on a map of the site of some "public area", the locality should either issue him a building permit forthwith or be required to purchase his property at the market value thereof; the adoption of the map can be an encumbrance on the use of property for as much as five years and, under the bill, a person could be denied the use he desires to make of his property and still be forced to pay taxes on it.

A county or municipality has the right to take property if they propose to use it for a public purpose; but they should be required either to take it, or to permit the owner to use it as he desires.

Recommended Bills

(Title and Enacting Clause to be Supplied)

ARTICLE 1

General Provisions

§ 15-100. The governing body of any county or municipality may by resolution or ordinance create a local planning commission or participate in a regional planning commission in order to promote the orderly development of such political subdivision and its environs. This act is intended to encourage local governments to improve public health, safety, convenience or welfare and to plan for the future development of communities to the end that transportation systems be carefully planned; that new community centers be developed with adequate highway, utility, health, educational, and recreational facilities; that the needs of agriculture, industry and business be recognized in future growth; that residential areas be provided with healthy surrounding for family life; and that the growth of the community be consonant with the efficient and economical use of public funds.

In accomplishing the foregoing objectives such planning commissions shall serve primarily in an advisory capacity to the governing bodies.

§ 15-101. The planning commission of any region, county or municipality may cooperate with other planning commissions or legislative and administrative bodies and officials of other regions, counties, and municipalities within or without such areas, so as to coordinate the planning and development of such region, county or municipality with the plans of such other regions, counties, or municipalities. Such commissions may appoint such committees and may adopt such rules as needed to effect such cooperation. Such planning commissions may also cooperate with the State Department of Conservation and Economic Development and use advice and information furnished by such Department and by other State and federal officials, departments and agencies. Such departments and agencies having information, maps and data pertinent to the planning and development of such region, county or municipality may make the same available for the use of such planning commissions.

§ 15-102. Upon the effective date of this act, planning commissions, by whatever name designated, and boards of zoning appeals heretofore established shall continue to operate as though created under the terms of this act. All actions lawfully taken by such commissions and boards are hereby validated and continued in effect until amended or repealed in accordance with this act.

The membership of existing planning commissions and boards of zoning appeals shall continue unchanged until the first regular meeting of the governing body of the county or municipality in January nineteen hundred sixty-three. At that time any appointments or changes needed to conform any such commission or board to the requirements of this act shall be made.

The adoption of a comprehensive or master plan or any general development plans under the authority of prior acts is hereby validated and shall continue in effect until amended under the provisions of this act.

§ 15-103. (a) "Governing body" means the board of supervisors of a county or the council of a city or town.

(b) "Historic area" means an area containing buildings or places in which historic events occurred or having special public value because of notable architectural or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation.

(c) "Local planning commission" or "local commission" means a municipal planning commission or a county planning commission.

(d) "Municipality" means a city or town incorporated under the laws of Virginia.

(e) "Official map" means a map of legally established and proposed public streets, waterways, and public areas, adopted by the governing body of a county or municipality in accordance with the provisions of Article 5 hereof.

(f) "Person" means individual, firm, corporation or association.

(g) "Regional planning commission" means a planning commission for any region consisting of any two or more adjacent counties or municipalities or of either or both, including any county and any town or towns within it, heretofore organized or organized under the provisions of Article 2 hereof; and includes any such commission organized under the designation "regional planning and economic development commission".

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

§ 15-104. Plans or ordinances or amendments thereof, recommended or adopted under the powers conferred by this act need not be advertised in full, but may be advertised by reference. Every such advertisement shall contain a reference to the place or places within the county or municipality where copies of the proposed plans, ordinances or amendments may be examined.

When public notice is required by this act, the local commission shall not recommend nor the governing body adopt any plan, ordinance or amendment until notice of intention so to do has been published once a week for two successive weeks in some newspaper published or having general circulation in such county or municipality. Such notice shall specify the time and place of hearing at which persons affected may appear and present their views, not less than five days nor more than ten days after final publication.

After enactment of any such plan, ordinance or amendment further publication thereof shall not be required.

ARTICLE 2

Regional Planning

§ 15-200. (a) The governing bodies of any two or more counties or municipalities which authorize the establishment of membership in, and support of, a regional planning commission shall determine the number and qualifications of the members of any such commission, their terms of office and method of appointment or removal. Not more than one member of the governing body of each participating political subdivision shall be a member of such commission. Members of a regional planning commission shall serve without salary but may be reimbursed for expenses incurred in the performance of their duties. The commission shall elect a chairman

who shall serve for a fixed term not exceeding four years and who shall not be eligible for reelection as chairman for the ensuing term. The commission may create and fill such other offices as it deems necessary.

(b) Every commission shall adopt rules for the transaction of business and shall keep a record of its transactions which record shall be a public record. Each participating county or municipality may, upon request of the commission, assign to the commission any employees to make special surveys or studies requested by the commission. All officials of participating counties and municipalities, upon request, shall furnish to the commission such available information as it requires.

(c) A commission may require its employees who receive and disburse funds of the commission to be bonded.

(d) Any regional planning and economic development commission heretofore created may in its discretion delete the words "economic development" from its name but such change shall not affect or limit the powers and duties of such commission.

§ 15-201. (a) The governing bodies of participating counties and municipalities are authorized to appropriate funds for the operation of a regional commission. Such commission may, with the consent of all the participating governing bodies, receive grants from the federal or state governments, or any other source, and may contract therewith. Such commission may appoint such employees and staff as it deems necessary for its work, and contract with consultants for the services it requires.

(b) Such commission may provide planning assistance and do planning work, including surveys, land use studies, urban renewal plans, technical services and other elements of comprehensive planning programs in and for any county or municipality within the region, and for this purpose may, with the consent of the participating governing bodies, accept and use funds, personnel or other assistance made available by the federal or state governments or any other source. A commission may enter into agreements or contracts regarding the acceptance or use of the funds or assistance. A commission may perform planning services for any government which is not a member thereof, and may charge fees therefor. A commission may prepare and sell maps, reports, bulletins or other material pertaining to the activities of the commission.

(c) The Governor is authorized to make available to each commission from funds available to the Governor a sum not to exceed one-half the cost of salaries and operation of a staff, in no case to exceed ten thousand dollars to any one commission annually. Such funds may be made available by the Governor upon application from a commission provided that the composition of the region and the program of activities to be undertaken are approved by the Commissioner of the Division of Industrial Development and Planning and the personnel they propose to appoint are qualified in the judgment of the Commissioner of the Division of Industrial Development and Planning.

§ 15-202. It shall be the duty of every commission to prepare and recommend a comprehensive plan for the guidance of the physical development of the region, and it may conduct the surveys and studies necessary thereto. Such plan, with its maps, diagrams and descriptive matter, shall be concerned with those elements of physical development which are regional in importance or which extend beyond the boundary of any one participating political subdivision, as distinguished from matters only of

local importance. Among the matters that may be incorporated in a comprehensive regional plan are the following:

(a) A system of major streets, highways and transportation facilities, including ports, airports and supporting installations, primarily serving the region in general;

(b) A system of major parks and other recreational areas and facilities to serve the region in general;

(c) Water supply and sewage disposal facilities including the principal distribution mains and trunk sewers, and other utilities;

(d) Drainage and flood control systems;

(e) A general plan for the best utilization of land throughout the region, including the determination of the best over-all locations for industry, business, living areas, recreation, conservation, agriculture, and other uses;

(f) Facilities for community service of a type that might serve the region at large, such as penal institutions, hospitals, and welfare institutions.

In the preparation of a comprehensive regional plan, the commission shall make appropriate studies of such matters as the existing and potential cultural and economic patterns and growth of the region, its population characteristics, trends and prospects, the principal aspects of existing development, and trends of development. The plan shall be designed to accommodate anticipated growth for many years ahead but shall be drawn with due regard for a reasonable estimate of the ways and means for accomplishing the objectives indicated.

§ 15-203. The commission may recommend; or thereafter recommend amendments to, the comprehensive plan by resolution approved by at least a majority of its entire membership but the plan or amendments thereto shall not become effective as to a participating political subdivision until approved and adopted by a majority vote of the governing body thereof. Before recommending, or recommending amendments to such plan, however, the commission shall first submit it, or the relevant parts of it, to the planning commissions of the several jurisdictions comprising the region and shall give each of them a reasonable period of time, not less than thirty days, in which to submit their comments. The regional planning commission shall also hold at least one public hearing after giving notice as provided in § 15-104.

§ 15-204. After the adoption of a regional plan as provided herein, no county or municipality or authority shall proceed with the construction of any public improvement or public institution, or with the acquisition of any land for public purposes, or the disposition of any public lands, which construction, acquisition or disposition, in the judgment of the governing body, is in conflict with the regional plan, without first referring the proposal to the commission. The commission shall consider the proposal in relation to the comprehensive regional plan and determine whether or not it is consistent therewith and submit a reply within thirty days of such referral. In the case of disapproval by the regional planning commission, the project shall not proceed or the land be purchased or disposed of except by at least a two-thirds vote of the governing body, board or authority which submitted the proposal.

being established to serve a Virginia area which, for planning purposes, constitutes a logical region and which extends beyond the boundaries of the Commonwealth of Virginia, the commission may admit to membership counties, municipalities or the District of Columbia, any or all of which are part of the same region but located outside Virginia. Counties and municipalities may participate through membership and financial support in regional planning commissions that have been or are being established in other states or the District of Columbia when the counties and municipalities are part of the same region served by the out-of-state regional planning commission.

ARTICLE 3

Local Planning

§ 15-300. A local planning commission, hereinafter sometimes referred to as local commission shall consist of not less than five nor more than fifteen members, appointed by the governing body, all of whom shall be residents of the county or municipality, and who shall be public-spirited persons qualified by knowledge and experience to comprehend and make decisions on questions of community growth and development in the broad public interest. The local governing body may require each member of the commission to take an oath of office.

One member of the commission may be a member of the governing body of the county or municipality, and one member may be a member of the administrative branch of government of the county or municipality. The term of each of these two members shall be co-extensive with the term of office to which he has been elected or appointed, unless the governing body, at the first regular meeting each year, appoints others to serve as their representatives. The remaining members of the commission first appointed shall serve respectively for terms of one year, two years, three years, and four years, divided equally or as nearly equal as possible between the membership. Subsequent appointments shall be for terms of four years each. The local governing bodies may establish different terms of office for initial and subsequent appointments. Vacancies shall be filled by appointment for the unexpired term only. Members may be removed for malfeasance in office.

The local governing body may provide for: (1) reimbursement of actual expenses incurred by members of the commission; or (2) compensation to such members, or any of them, for their services; or (3) both.

§ 15-301. In cases where a municipality is situated within or is completely surrounded by a county, or adjoins a county or another municipality and such localities have local commissions, a representative of the local commission of such county or municipality, designated by it, may be, with the consent of the governing bodies of both localities, an advisory member of the local commission of such other county or municipality, as the case may be.

§ 15-302. The local commission shall fix the time for holding regular meetings, but it shall meet at least quarterly.

Special meetings of the commission may be called by the chairman or by two members upon written request to the secretary. The secretary shall mail to all members, at least five days in advance of a special meeting, a written notice fixing the time and place of the meeting and the purpose

Written notice of a special meeting is not required if the time of the special meeting has been fixed at a regular meeting, or if all members are present at the special meeting or file a written waiver of notice.

§ 15-303. A majority of the members shall constitute a quorum and no action of the local commission shall be valid unless authorized by a majority vote of those present.

§ 15-304. The governing body may provide the local commission with facilities for the holding of meetings and the preservation of plans, maps, documents and accounts, and may appropriate funds needed to defray the expenses of the commission.

§ 15-305. The local commission shall elect from the appointed members a chairman and a vice-chairman, whose terms shall be for one year. If authorized by the governing body the commission may (1) create and fill such other offices as it deems necessary; (2) appoint such employees and staff as it deems necessary for its work; and (3) contract with consultants for such services as it requires. The expenditures of the commission, exclusive of gifts or grants, shall be within the amounts appropriated for such purpose by the governing body.

The commission shall adopt rules for the transaction of business and shall keep a record of its transactions which shall be a public record. Upon request of the commission, the governing body or other public officials may, from time to time, for the purpose of special surveys under the direction of the commission, assign or detail to it any members of the staffs of county or municipal administrative departments, or such governing body or other public official may direct any such department employee to make for the commission special surveys or studies requested by the local commission.

§ 15-306. The governing body of any municipality located within or adjacent to a county having a local commission or adjacent to a municipality having a local commission, may designate, by ordinance, such commission as the local commission of such municipality. The governing body of any county surrounding or adjacent to a municipality having a local commission may, by ordinance, designate such municipal commission as the county local commission.

A county commission designated as a municipal commission or a municipal commission designated as a county commission or as the commission for another municipality shall have all the powers and duties granted under this act to a local commission.

Any municipality designating a county commission or the commission of another municipality as its local commission may contract annually to pay the county or to the other municipality a proportionate part of the expenses properly chargeable for the planning service rendered such municipality, and any such payments may be appropriated to such county or municipal commission in addition to any funds budgeted for planning purposes. The same arrangement may be followed as to a municipal commission serving as a local commission for a county.

Any one or more adjoining or adjacent counties or municipalities including any municipality within any such county may by agreement provide for a joint local commission for any two or more of such counties and municipalities. Such agreement shall provide for the number of members of such commission and how they shall be appointed, in what proportion

the expenses of such commission shall be borne by the participating political subdivisions, and any other matters pertinent to the operation of the commission as the joint local commission for such political subdivisions. Any commission so created shall have, as to each participating political subdivision, the powers and duties granted to and imposed upon local commissions under this chapter.

§ 15-307. To effectuate this act, the local commission shall:

(a) Exercise general supervision of, and make regulations for, the administration of its affairs;

(b) Prescribe rules pertaining to its investigations and hearings;

(c) Supervise its fiscal affairs and responsibilities, under rules and regulations as prescribed by the governing body.

(d) Keep a complete record of its proceedings; and be responsible for the custody and preservation of its papers and documents;

(e) Make recommendations and an annual report to the governing body concerning the operation of the commission and the status of planning within its jurisdiction;

(f) Prepare, publish and distribute reports, ordinances and other material relating to its activities;

(g) Prepare and submit an annual budget in the manner prescribed by the governing body of the county or municipality; and

(h) If deemed advisable, establish an advisory committee or committees.

§ 15-308. The local commission may expend, under regular county or municipal procedure as provided by law, sums appropriated to it for its purposes and activities.

The governing body of a county or municipality may accept gifts and donations for local commission purposes. Any moneys so accepted shall be deposited with the appropriate governing body in a special non-reverting local commission fund to be available for expenditure by the local commission for the purpose designated by the donor. The disbursing officer of the county or municipality may issue warrants against such special fund only upon vouchers signed by the chairman and the secretary of the local commission.

ARTICLE 4

The Comprehensive Plan

§ 15-400. The local commission shall prepare and recommend a comprehensive plan for the physical development of the territory within its jurisdiction. Such plan, with the accompanying maps, plats, charts, and descriptive matter, shall show the commission's long range recommendations for the general development of the territory covered by the plan. It may include, but need not be limited to, (1) the designation of areas for various types of public and private development and use, such as different kinds of residential, commercial, industrial, agricultural, conservation, recreation, public service, flood plain and drainage, and other areas, which part of the plan may be known as a Land Use Plan; (2) the designation of a comprehensive system of transportation facilities such as streets, roads, highways, parkways, railways, bridges, viaducts, water-

ways, airports, ports, terminals, and other like facilities; (3) the designation of a system of community service facilities such as parks, forests, schools, playgrounds, public buildings and institutions, hospitals, community centers, waterworks, sewage disposal or waste disposal areas, and the like; and (4) the designation of areas for urban renewal or other treatment. The comprehensive plan shall be general in nature, in that it shall designate the general or approximate location, character, and extent of each feature shown on the plan, but it may indicate where existing lands or facilities are proposed to be extended, widened, removed, relocated, vacated, narrowed, abandoned, or changed in use as the case may be.

In the preparation of a comprehensive plan the commission shall make careful and comprehensive surveys and studies of the existing conditions and trends of growth, and of the probable future requirements of the community. The comprehensive plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the area which will, in accordance with present and probable future needs and resources, best promote the health, safety, morals, order, convenience, prosperity or general welfare of the inhabitants, as well as efficiency and economy in the process of development, including, among other things, such reasonable distribution of population and of the uses of land for trade, industry, habitation, recreation, agriculture, forestry and other purposes as well tend:

(a) To create conditions favorable to health, safety, transportation, trade, industry, civic activities and recreational, educational and cultural opportunities;

(b) To reduce the wastes of physical, financial or human resources which result from undue congestion or undue scattering of population, untimely changes in land use, unnecessary traffic congestion, or other reasons; and

(c) Toward the efficient and economic utilization, conservation and production of the supply of food and water and of drainage, sanitary and other facilities and resources.

§ 15-401. (1) In the preparation of a comprehensive plan, the local commission shall investigate such matters as the following:

(a) Existing development, use of land, trends of growth or changes, natural site characteristics, history of community population changes, population densities, employment and economic factors, existing community facilities, characteristics and conditions of existing development, areas of blight, street and highway facilities, traffic conditions, parking conditions, drainage conditions, flood control and flood damage prevention measures, transportation facilities, school and recreational facilities, and any other matters relating to the subject matter and general purposes of the comprehensive plan.

(b) Probable future economic and population growth of the community, and requirements for land areas for agriculture, forestry, urban growth, industry, transportation, water supplies, schools, parks, administrative buildings, and other public purposes.

(2) The comprehensive plan should be implemented by the preparation and recommendation, as provided in this act, of the following:

(a) The official map;

(b) A long-range development program of public works; projects

based on the comprehensive plan and related to the financial resources of the community, which program should be reviewed annually;

- (c) Detailed plans of specific projects included on the official map;
- (d) A subdivision control ordinance; and
- (e) A zoning ordinance and zoning districts map.

§ 15-402. Prior to the recommendation of a comprehensive plan or any part thereof, the local commission shall give notice and hold a public hearing on the plan, after notice as required by § 15-104. After such public hearing has been held the commission may by resolution recommend the plan to the governing body.

§ 15-403. Upon recommendation of the comprehensive plan or a part thereof by the local commission, a copy thereof shall be certified to the governing body.

§ 15-404. After certification of the plan or a part thereof the governing body after a public hearing with notice as required by § 15-104 shall proceed to a consideration of the plan and shall approve and adopt, amend and adopt, or disapprove the same within six months after such certification.

§ 15-405. If such governing body disapproves the plan, then it shall be returned to the local commission for its reconsideration, with a written statement of the reasons for its disapproval.

The commission shall have ninety days in which to reconsider the plan and re-submit it, with any changes, to the governing body.

§ 15-406. As the work of preparing the comprehensive plan progresses, the local commission may, from time to time, recommend, and the governing body approve and adopt, parts thereof; any such part shall cover one or more major sections or divisions of the county or municipality or one or more functional matters.

§ 15-407. After the adoption of a comprehensive plan, all amendments to it shall be recommended, and approved and adopted, respectively, according to the public notice and hearing procedures set forth for recommendation and approval and adoption of the original plan except that, if the governing body desires an amendment it may direct the local commission to prepare an amendment and submit it to public hearing within sixty days after formal written request by the governing body.

§ 15-408. At least once every five years, the comprehensive plan, or the completed parts of it, shall be reviewed by the local commission to determine whether it is advisable to amend the plan.

§ 15-409. Any county plan may include planning of incorporated towns to the extent to which, in the county local commission's judgment, it is related to planning of the unincorporated territory of the county as a whole, provided, however, that the plan shall not be considered as a comprehensive plan for any incorporated town unless recommended by the town commission, if any, and adopted by the governing body of the town.

Any municipal plan may include the planning of adjacent unincorporated territory to the extent to which, in the municipal local commission's judgment, it is related to the planning of the incorporated territory of the municipality; provided, however, that the plan shall not be

considered as a comprehensive plan for such unincorporated territory unless recommended by the county local commission, if any, and approved and adopted by the governing body of the county.

§ 15-410. Whenever the local commission shall have recommended a comprehensive plan or part thereof for the county or municipality and such plan shall have been approved and adopted by the governing body, it shall control the general or approximate location, character and extent of each feature shown on the plan. Thereafter no street, park or other public area, public building or public structure, or public utility not subject to zoning control as provided by law whether publicly or privately owned, shall be constructed, established or authorized, nor land therefor acquired, unless and until the general location, character, and extent thereof has been submitted to and approved by the local commission; provided, that in case of disapproval, the commission shall communicate its reasons for disapproval in writing to the governing body, which may overrule the action of the commission by a vote of a majority of the membership thereof; and provided that the failure of the commission to act within sixty days of such submission, unless such time be extended by the governing body, shall be deemed approval. Widening, narrowing, extension, enlargement, vacation or change of use of streets or public areas shall likewise be submitted for approval, but paving, repair, reconstruction, improvement, drainage or similar work and normal service extensions of public utilities shall not require approval unless involving a change in location or extent of a street or public area.

§ 15-411. Every department, board, bureau, commission, or other agency of the Commonwealth of Virginia, which is responsible for the construction, operation, or maintenance of any public facility within the territory to be included within a comprehensive plan or any part thereof, or which is responsible for acquiring land for any public purpose, or of disposing of such land, shall, upon the request of the local commission having authority to prepare such plan, furnish reasonable information requested relative to the plans of said agency which may affect the comprehensive plan; and every such agency shall collaborate and cooperate with such commission, when requested, in the preparation of the comprehensive plan to the end that the plan will coordinate the interests and responsibilities of all concerned. Nothing herein shall be deemed, however, to abridge the authority of any such State agency regarding the facilities now or hereafter coming under its jurisdiction.

ARTICLE 5

The Official Map

§ 15-500. In counties or municipalities where no official map exists, or where an existing official map is incomplete, the local commission may make, or cause to be made, a map showing the locations of:

- (a) Legally established public streets, waterways, and public areas of the county or municipality; and
- (b) Future or proposed public streets, waterways and public areas.

The placing of any street or future or proposed street line upon the official map shall not, in and of itself, constitute or be deemed to constitute the opening or establishment of any street, nor the taking or acceptance of any land for street purposes, nor shall it obligate the county or municipality either to improve or maintain any such street. Nor shall the in-

clusion of proposed waterways or public areas constitute or be deemed a taking or acceptance of any land for public purposes.

No future or proposed street or street line, waterway, nor public area, shall be shown on an official map unless and until the center line of such street, the course of such waterway, or the metes and bounds of such public area, have been fixed or determined in relation to known, fixed and permanent monuments by a physical survey thereof. In addition to the center line of each street, the map shall indicate the width of the right of way thereof. Local commissions are hereby empowered to make or cause to be made the surveys required herein.

§ 15-501. After such map has been prepared and recommended by the local commission it shall be certified by the commission to the governing body of the county or municipality. The governing body may then approve and adopt the same by a majority vote of the membership thereof and publish it as the official map of the county or municipality. No official map shall be adopted by the governing body or have any effect until approved by ordinance duly passed by the governing body of the county or municipality after a public hearing, preceded by public notice as required by § 15-104.

Within thirty days after adoption of the official map the governing body shall cause it to be filed in the office of the clerk of the court or courts of the county or city wherein deeds are admitted to record.

§ 15-502. After adoption of the official map in accordance with this article, all streets, waterways, and public areas on subsequently recorded plats of subdivision shall be deemed additions or modifications of the official map and shall be placed thereon. No public hearing need be held or notice given in this connection.

The governing body may by ordinance make, from time to time, other additions to or modifications of the official map by placing thereon the location of reservations for proposed streets, street widenings, or street vacations, waterways and public areas in accordance with the procedures applicable to such county or municipality.

Prior to making any such additions or modifications of the official map, the governing body shall refer the same to the local commission for its consideration. The commission shall take action on such proposed additions or modifications within sixty days and report its recommendations to the governing body.

Upon receipt of the report of the commission, the governing body shall hold a public hearing on the proposed addition or modification to the official map and shall give notice of such hearing in accordance with § 15-104. All such reports of the commission, when delivered to the governing body, shall be available for public inspection.

Any ordinance embodying additions to or modifications of the official map shall be adopted by at least the vote required for original adoption of the official map. After the public hearing and the final passage of such ordinance, the additions or modifications shall become a part of the official map of the county or municipality. All changes, additions or modifications of the official map shall be filed with the clerk of the court as provided in § 15-501.

§ 15-503. The filing for recordation in the clerk's office of an official map or any addition thereto or modification thereof, adopted by the governing body of a county or municipality as provided in §§ 15-501 and

15-502, shall act as a reservation for public purposes of any land shown thereon as proposed to be used for a street, waterway or public area. Such reservation shall not be deemed the opening or establishment of any street, nor the taking of any land for public purposes, nor as a public improvement, but solely as designation of land by the governing body for future taking or acquisition for public use.

A governing body may, at the time of adopting an official map, or any addition thereto or modification thereof specify the time, not exceeding five years, for which reservation for street or other public purposes shall be effective; and if any land so reserved is not taken or acquired within such time, then such reservation shall be no longer effective.

§ 15-504. After recordation of an official map, no street, public sewer, water main or other public utility or improvement shall be constructed in, or any water, drainage, light or other public service rendered to or along a street unless such street has been duly placed on the official map in the manner hereinbefore set forth.

After such recordation, no building or zoning permit permitting the erection of a building shall be issued, except as hereinafter provided, unless a street giving access to the proposed structure has been duly placed on the official map; but this provision shall not apply to the State or any agency thereof. Where enforcement of this provision would entail unwarranted hardship and where the circumstances do not require the structure to be related to existing or proposed streets, the applicant for the permit may appeal from the decision of the administrative officer having charge of the issuance of such permits to the local commission, which shall afford the applicant a hearing within sixty days after the filing of notice of appeal and after not less than five days notice, and may, after such hearing, authorize the issuance of the permit subject to such reasonable conditions as will protect the orderly development of the street system. In the ordinance establishing an official map, the governing body may promulgate regulations governing the permitting of such variances.

No permit shall be issued, except as hereinafter provided, for any building within the lines of any street, waterway or public area which has been duly placed on an official map. If any property owner is aggrieved by a refusal to issue any such permit, he may appeal to the local commission, which shall afford him a hearing within sixty days after the filing of notice of appeal and after not less than five days notice. If the commission finds that hardship would result in that the entire property of which the reserved area forms a part cannot yield a reasonable return to the owner unless the permit is issued, that the proposed construction would not materially dislocate or increase the cost or difficulty of carrying into execution the comprehensive plan or the official map, and that, balancing the interests of the county or municipality in preserving the integrity of such plan and map and the interest of the owner in the use of his property, the grant of such permit is equitably required, it shall authorize the issuance of such permit, but shall specify the exact location, ground area, height, extent and character and other details of the building, and may impose such reasonable requirements as a condition of the granting of the permit as may be necessary to best protect the integrity of the comprehensive plan and official map.

If the commission finds that hardship would result from refusal to issue a building permit but that the permit cannot be issued without materially dislocating or increasing the cost of carrying into execution the comprehensive plan or the official map, it shall refuse to authorize the

issuance of such permit but shall recommend to the governing body that the reserved property be purchased or condemned; or if it finds that the entire property of which the reserved area forms a part cannot yield a reasonable return to the owner unless the permit is issued, it shall recommend that the entire property be purchased or condemned. Any part of the land so acquired in excess of that so reserved may be resold at a later date.

No person shall recover any damages for the taking for public use of any building or improvements constructed within the lines of any street, waterway or public area shown on an official map after the adoption and recordation thereof, unless a permit therefor was issued as hereinabove provided for, and any such building shall be removed at the expense of the owner.

Failure of the commission to act on any application for a building permit within sixty days after such application is made shall be deemed to be approval by the commission of the issuance of the permit.

In the event the commission refuses to authorize issuance of a building permit but does not recommend to the governing body the purchase or condemnation of the property involved or in the event that the commission recommends to the governing body that such property be purchased or condemned and the governing body does not, within ninety days of receipt of such recommendation, either make an offer for the purchase of the property or, if such offer is not accepted, institute proceedings for its condemnation, the applicant shall have the right of appeal to the circuit or corporation court of the county or city.

§ 15-504.1. The official map and any additions thereto or modifications thereof shall be reviewed within not more than five years from the date of adoption or readoption of the map by the governing body. The procedure by the local commission and the governing body in connection with such review shall conform to that prescribed as to original adoption of the map. Neither the official map nor any additions thereto or modifications thereof shall be of any force or effect for more than five years after adoption or readoption of the map unless readopted by the governing body in accordance herewith.

§ 15-505. During the preparation of an official map the local commission shall consult with the State Highway Commission or its local representative as to any streets under the jurisdiction of the Highway Commission, and prior to recommendation of the map to the governing body it shall submit the same to the Highway Commission for comment. Any recommendations of the Highway Commission, not incorporated in the official map, shall be forwarded to the governing body when the map is recommended by the local commission. When any county or municipality has adopted an official map in accordance with the terms of this act a certified copy of the map and ordinance adopting it shall be sent to the Highway Commission.

ARTICLE 5A

Capital Outlay Programs

§ 15-506. A local commission may, and at the direction of the governing body shall, prepare and revise annually a program of capital improvement projects based on the comprehensive plan of the county or municipality for a period not to exceed the ensuing five years. The commission shall submit the same annually to the governing body, or to the

city or town manager, county manager, county executive or other official charged with preparation of the budget for the municipality or county, at such time as it or he shall direct. Such capital outlay program shall include the commission's recommendations, and estimates of cost of such projects 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 county or municipality. In the preparation of its capital budget recommendations, the commission shall consult with the city or town manager, county manager, county executive or other executive head of the government of the county or municipality, the heads of departments and interested citizens and organizations and shall hold such public hearings as it deems necessary.

ARTICLE 6

Land Subdivision and Development

§ 15-600. The governing body of any county or municipality may adopt an ordinance to assure the orderly subdivision of land and its development. Unless otherwise defined in such ordinance, the term "subdivision" means the division of a parcel of land into three or more lots or parcels of less than five acres each for the purpose of transfer of ownership or building development, or, if a new street is involved in such division, any division of a parcel of land. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

§ 15-601. A subdivision ordinance may include, among other things, reasonable regulations and provisions that apply to or provide:

- (a) For size, scale and other plat details;
- (b) For the orderly development of the general area;
- (c) For the coordination of streets within the subdivision with other existing or planned streets within the general area as to location, widths, grades and drainage;
- (d) For adequate provisions for drainage and flood control and other public purposes, and for light and air;
- (e) For the extent to which and the manner in which streets shall be graded, graveled or otherwise improved and water and storm and sanitary sewer and other utilities or other facilities installed;
- (f) For the acceptance of dedication for public use of any right of way located within any subdivision which has constructed therein, or proposed to be constructed therein, any street, curb, gutter, sidewalk, drainage or sewerage system or other improvement, financed or to be financed in whole or in part by private funds only if the owner or developer (1) certifies to the governing body that the construction costs have been paid to the person constructing such facilities, or (2) furnishes to the governing body a certified check in the amount of the estimated costs of construction or a bond, with surety satisfactory to the governing body, in an amount sufficient for and conditioned upon the construction of such facilities, or a contract for the construction of such facilities and the contractor's bond, with like surety, in like amount and so conditioned;
- (g) For monuments of specific types to be installed establishing street and property lines;

(h) That unless a plat be filed for recordation within a reasonable time after final approval thereof such approval shall be withdrawn and the plat marked void and returned to the approving official; and

(i) For the administration and enforcement of such ordinance, not inconsistent with provisions contained in this act.

§ 15-602. The subdivision regulations adopted by a municipality shall apply within its corporate limits and may apply beyond, if the ordinance so provides, within the distance therefrom set out below:

(a) Within a distance of five miles from the corporate limits of cities having a population of fifty thousand or more;

(b) Within a distance of three miles from the corporate limits of cities having a population of less than fifty thousand; and

(c) Within a distance of two miles from the corporate limits of incorporated towns.

Where the corporate limits of two municipalities are closer together than the sum of the distances from their respective corporate limits as above set forth, the dividing line of jurisdiction shall be half-way between the limits of the overlapping boundaries.

The foregoing distances may be modified by mutual agreement between the governing bodies concerned, depending upon their respective areas of interest, provided such modified limits bear a reasonable relationship to natural geographic considerations or to the comprehensive plans for the area. Any such modification shall be set forth in the respective subdivision ordinances, by map or description or both.

No such regulations shall be finally adopted by any such municipality until the governing body of the county in which such area is located shall have been duly notified in writing by the governing body of the municipality or its designated agent of such proposed regulations, and requested to review and approve or disapprove the same; and if such county fail to notify the governing body of such municipality of its disapproval of such plan within forty-five days after the giving of such notice, such plan shall be considered approved. Provided, however, that in any county which has a duly appointed planning commission, the governing body or the council shall send a copy of such proposed regulations or amendments thereof to such commission which shall review and recommend approval or disapproval of the same. The county commission shall not take any such action until notice has been given and a hearing held as prescribed by § 15-104. Such hearing shall be held by the county commission within sixty days after the giving of notice by the municipality or its agent. Such commission shall forthwith after such hearing make its recommendations to the governing body of the county which shall within thirty days after such hearing notify the municipality of its approval or disapproval of such regulations and no regulations effective beyond the corporate limits shall be finally adopted by the municipality until notification by the governing body of the county, except that if the county fails to notify the governing body of the municipality of its disapproval of such regulations within ninety days after the copy of the regulations or amendments thereof are received by the county commission, the regulations shall be deemed to have been approved.

§ 15-602.1. The subdivision regulations adopted by a county shall apply in all the unincorporated territory of the county; provided, that no such regulations to be effective in the area of a county subject to munic-

ipal jurisdiction shall be finally adopted by such county until the governing body of the municipality shall have been notified in writing of such proposed regulations, and requested to review and approve or disapprove the same, and if such municipality fails to notify the governing body of such county of its disapproval of such regulations within forty-five days after the giving of such notice, the same shall be considered approved; and provided further, that if the municipality has a duly appointed planning commission, the governing body of the county or its agent shall give such notice to such commission as is required to be given county planning commissions by the preceding section, and the provisions of that section shall apply, mutatis mutandis, to the actions of such commission and the governing bodies of the county and city, respectively.

§ 15-602.2. In either event when a disagreement arises between the county and municipality as to what regulations should be adopted for the area, and such difference can not be amicably settled, then after ten days prior written notice by either to the other, either or both parties may petition the circuit court of the county wherein the area or a major part thereof lies to decide what regulations are to be adopted. The court shall hear the matter and enter an appropriate order.

§ 15-603. In any county or municipality having a local commission, any proposed subdivision ordinance shall be prepared and recommended by such commission and be transmitted to the governing body. The governing body of any county or municipality may approve and adopt a subdivision ordinance only after a notice of intention so to do has been published, and a public hearing held, in accordance with § 15-104.

§ 15-605. When a subdivision ordinance has been adopted, or amended, a certified copy of the ordinance and any and all amendments thereto shall be filed in the office of the engineer or other official of the municipality or county, designated in such ordinance, and in the clerk's office of the court or courts in which deeds are admitted to record of each county or municipality in which such ordinance is applicable.

§ 15-606. In any county or municipality having a local commission, such commission on its own initiative may or at the request of the governing body of the county or municipality shall prepare and recommend amendments to the subdivision ordinance. The procedure for such amendment shall be the same as for the preparation and recommendation and approval and adoption of the original ordinance; provided that no such amendment shall be adopted by the governing body of a county or municipality having a local commission without a reference of the proposed amendment to the commission for recommendation, nor until sixty days after such reference, if no recommendation is made by the commission.

§ 15-607. After the adoption of a subdivision ordinance in accordance with this act, the following provisions shall be effective in the territory to which such ordinance applies:

(a) No person shall subdivide land without making and recording a plat of such subdivision and without fully complying with the provisions of this article and of such ordinance.

(b) No such plat of any subdivision shall be recorded unless and until it shall have been submitted to and approved by the local commission or if none, by the governing body or its duly authorized agent, of the county or municipality wherein the land to be subdivided is located; or by the commissions, governing bodies or agents, as the case may be, of each county or municipality having a subdivision ordinance, in which any part of the land lies.

(c) No person shall sell or transfer any such land by reference to or exhibition of or by other use of a plat of a subdivision, before such plat has been duly recorded as provided herein, unless such subdivision was lawfully created prior to the adoption of a subdivision ordinance applicable thereto, provided, that nothing herein contained shall be construed as preventing the recordation of the instrument by which such land is transferred or the passage of title as between the parties to the instrument.

(d) Any person violating the foregoing provisions of this section shall be subject to a fine of not more than one hundred dollars for each lot or parcel of land so subdivided or transferred or sold; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided.

(e) No clerk of any court shall file or record a plat of a subdivision required by this article to be recorded until such plat has been approved as required herein; and the penalties provided by § 17-59 shall apply to any failure to comply with the provisions of this subsection.

§ 15-608. The administration and enforcement of subdivision regulations insofar as they pertain to public improvements as authorized in § 15-601 shall be vested in the governing body of the political subdivision in which the improvements are or are to be located.

Except as provided above, the governing body which adopts subdivision regulations as authorized in this article shall be responsible for administering and enforcing the provisions of such subdivision regulations, through its planning commission or otherwise.

§ 15-609. Whenever the owner or proprietor of any tract of land located within any territory to which a subdivision ordinance applies desires to subdivide the same, he shall submit a plat of the proposed subdivision to the local commission of the county or municipality, or an agent designated by the governing body thereof for such purpose, if there be no local commission. When the land involved lies wholly or partly within an area subject to the joint control of more than one political subdivision, the plat shall be submitted to the local commission or other designated agent of each such political subdivision; except that the political subdivisions, by mutual agreement, may provide in their ordinances for some convenient administrative arrangement whereby the subdivider may submit the plat to one commission or other agent which will refer it to the others and attempt to secure joint approval.

If a local commission or other agent fails to approve or disapprove the proposed plat within forty-five days after it has been officially submitted for approval the subdivider, after ten days' written notice to the commission, or agent, may petition the circuit or corporation court of the county or municipality in which the land involved, or the major part thereof, is located, to decide whether the plat should or should not be approved. The court shall hear the matter and make and enter such order with respect thereto as it deems proper.

If a local commission or other agent disapproves a plat and the subdivider contends that such disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, he may appeal to the circuit or corporation court having jurisdiction of such land and the court shall hear and determine the case as soon as may be.

Nothing in this article shall be deemed to prohibit the local governing

body from providing in its ordinance for the submission of preliminary subdivision plats for tentative approval under such rules of preparation and procedure as may be set forth in said ordinance.

§ 15-610. Every subdivision plat which is intended for recording shall be prepared by a certified professional engineer or land surveyor, who shall endorse upon each such plat a certificate signed by him setting forth the source of title of the owner of the land subdivided and the place of record of the last instrument in the chain of title; when the plat is of land acquired from more than one source of title, the outlines of the several tracts shall be indicated upon such plat. Provided, however, that nothing herein shall be deemed to prohibit the preparation of preliminary studies, plans, or plats of a proposed subdivision by the owner of the land, city planners, land planners, architects, landscape architects, or others having training or experience in subdivision planning or design.

§ 15-611. Every such plat, or deed of dedication to which the plat is attached, shall contain in addition to the professional engineer's or land surveyor's certificate a statement as follows: the platting or dedication of the following described land (here insert a correct description of the land subdivided) is with the free consent and in accordance with the desire of the undersigned owners, proprietors, and trustees, if any. The statement shall be signed by such persons and duly acknowledged before some officer authorized to take acknowledgment of deeds. When thus executed and acknowledged, the plat, subject to the provisions herein, shall be filed and recorded in the office of the clerk of court where deeds are admitted to record for the lands contained in the plat, and indexed in the general index to deeds under the names of the owners of lands signing such statement, and under the name of the subdivision.

§ 15-612. (NOT USED)

§ 15-613. The recordation of such plat shall operate to transfer, in fee simple, to the respective counties and municipalities in which the land lies such portion of the premises platted as is on such plat set apart for streets, alleys, public easements or other public use and to create a public right of passage over the same; but nothing contained in this article shall affect any right of a subdivider of land heretofore validly reserved.

§15-614. (NOT USED)

§ 15-615. Nothing herein shall be construed as creating an obligation upon any municipality or county to pay for grading or paving, or for sidewalks, sewers, curb and gutter improvements or construction.

§ 15-616. If the owners of any such subdivision desire to construct in, on or under any streets or alleys located in such subdivision any gas, water, sewer or electric light or power works, pipes, wires, fixtures or systems, they shall present plans or specifications therefor to the governing body of the county or municipality in which the subdivision is located or its authorized agent, for approval. If the subdivision is located beyond the corporate limits of a municipality but within the limits set forth in § 15-602, such plans and specifications shall also be presented for approval to the governing body of such municipality, or its authorized agent. The governing body, or agent, shall have thirty days in which to approve or disapprove the same. In event of the failure of any governing body, or its agent, to act within such period, such plans and specifications may be submitted, after ten days' notice to the county or municipality, to the judge of the circuit or corporation court having jurisdiction within such county or city for his approval or disapproval, and his approval thereof shall,

for all purposes of this article be treated and considered as the approval of the municipality or county or its authorized agent, and from the decision of such judge in approving or disapproving such plans or specifications there shall be no appeal. Nothing herein shall be construed as granting the right to appeal from the action of the governing body in approving or disapproving such plans and specifications.

§ 15-617. Any such plat recorded, or part thereof, may be vacated with the consent of the governing body or its designated agent of the county or municipality where the land lies, by the owners, proprietors and trustees, if any, who signed the statement required by § 15-611, at any time before the sale of any lot therein, by a written instrument, declaring the same to be vacated, duly executed, acknowledged or proved and recorded in the same clerk's office wherein the plat to be vacated is recorded and the execution and recordation of such writing shall operate to destroy the force and effect of the recording of the plat so vacated and to divest all public rights in, and to reinvest such owners, proprietors and trustees, if any, with the title to, the streets, alleys, easements and public areas laid out or described in such plat.

§ 15-618. In cases where any lot has been sold, the plat or part thereof may be vacated according to either of the following methods:

(a) By instrument in writing agreeing to said vacation signed by all the owners of lots shown on said plat and also signed on behalf of the governing body of the county or municipality in which the land shown on the plat or part thereof to be vacated lies for the purpose of showing the approval of such vacation by the governing body. The word "owners" shall not include lien creditors except those whose debts are secured by a recorded deed of trust or mortgage and shall not include any consort of an owner. The instrument of vacation shall be acknowledged in the manner of a deed and filed for record in the clerk's office of any court in which said plat is recorded.

(b) By ordinance of the governing body of the county or municipality in which the land shown on the plat or part thereof to be vacated lies on motion of one of its members or on application of any interested person. Such ordinance shall not be adopted until after notice has been given as required by § 15-104. Said notice shall clearly describe the plat or portion thereof to be vacated and state the time and place of the meeting of the governing body at which the adoption of the ordinance will be voted upon. Any person may appear at said meeting for the purpose of objecting to the adoption of the ordinance. An appeal from the adoption of the ordinance may be filed within thirty days with the circuit or corporation court having jurisdiction of the land shown on the plat or part thereof to be vacated. Upon such appeal the court may nullify the ordinance if it finds that the owner of any lot shown on the plat will be irreparably damaged. If no appeal from the adoption of the ordinance is filed within the time above provided or if the ordinance is upheld on appeal, a certified copy of the ordinance of vacation may be recorded in the clerk's office of any court in which the plat is recorded.

§ 15-619. The recordation of the instrument as provided under paragraph (a) of § 15-618 or of the ordinance as provided under paragraph (b) of § 15-618 shall operate to destroy the force and effect of the recording of the plat or part thereof so vacated, and to vest fee simple title to the center line of any streets, alleys or public easements so vacated in the owners of abutting lots free and clear of any rights of the public or other owners of lots shown on the plat, but subject to the rights of the owners of any public utility installations which have been previously erected therein.

If any such street, alley or public easement is located on the periphery of the plat, such title for the entire width thereof shall vest in such abutting lot owners. The fee simple title to any portion of the plat so vacated as was set apart for other public use shall remain vested in the county or municipality free and clear of any rights of public passage over the same and may be used and disposed of by such county or municipality according to the provisions of law applicable to the property of the county or municipality in general.

§ 15-620. Notwithstanding the provisions of this article, any streets, alleys, easements or public places shown on plats of subdivision recorded in accordance with the provisions of any statute in effect prior to the effective date of this act, may be vacated according to the provisions of any such statute.

§ 15-621. The clerk in whose office any plat so vacated has been recorded shall write in plain legible letters across such plat, or the part thereof so vacated, the word "vacated", and also make a reference on the same to the volume and page in which the instrument of vacation is recorded.

ARTICLE 7

Zoning

§ 15-700. The governing body of any county or municipality may, by ordinance, divide the territory under its jurisdiction into districts of such number, shape and area as it may deem best suited to carry out the purposes of this article, and in each district it may regulate, restrict, permit, prohibit, and determine the following:

- (a) The use of land, buildings, structures and other premises for agricultural, commercial, industrial, residential and other specific uses;
- (b) The size, height, area, bulk, location, erection, construction, reconstruction, alteration, repair, maintenance, razing, or removal of structures;
- (c) The areas and dimensions of land, water, and air space to be occupied by buildings, structures and uses, and of courts, yards, and other open spaces to be left unoccupied by uses and structures;
- (d) The excavation or mining of soil or other natural resources.

For the purpose of zoning, the governing body of a county shall have jurisdiction over all the unincorporated territory in the county, and the governing body of a municipality shall have jurisdiction over the incorporated area of the municipality.

§ 15-700.1. In order to avail itself of the powers conferred by this article, the governing body of any county or municipality in which no local planning commission has been created shall appoint a commission of not less than five nor more than fifteen members to be known as the zoning commission to recommend the boundaries of the various districts and the regulations to be enforced therein. Any commission so appointed shall exercise the powers and perform the duties conferred and imposed on local planning commissions under this article. Such commission shall cease to exist upon the creation of a local planning commission for the political subdivision.

§ 15-701. All such regulations shall be uniform for each class or kind of buildings and uses throughout each district, but the regulations in one district may differ from those in other districts.

§ 15-702. 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 § 15-100 of this act. To these ends, such ordinances shall be designed (1) to provide for adequate light, air, convenience of access, and safety from fire, flood and other dangers; (2) to reduce or prevent congestion in the public streets; (3) to facilitate the creation of an economical, convenient, peaceful, attractive and harmonious community; (4) to expedite the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, schools, parks, forests, playgrounds, recreational facilities, airports, and other public requirements; (5) to protect against destruction of or encroachment upon historic areas; and (6) to protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health, or property from fire, flood, panic or other dangers.

§ 15-703. Zoning ordinances and districts shall be drawn with reasonable consideration for the existing use of property, the suitability of properties for various uses, the trends of growth or change, the current and future requirements of the community as to land for various purposes as determined by population and economic studies and other studies, the transportation requirements of the community, and the requirements for schools, parks, playgrounds, and other public services; and for the conservation of properties and their values and the encouragement of the most appropriate use of land throughout the county or municipality.

§ 15-704. A zoning ordinance may include, among other things, reasonable regulations and provisions as to any or all of the following matters:

(a) For variations in or exceptions to the general regulations in any district in cases of unusual situations or to ease the transition from one district to another or for buildings, structures or uses having special requirements

(b) 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.

(c) For the granting of special exceptions under suitable regulations and safeguards.

(d) 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 county or municipality. The zoning administrator shall have all necessary authority on behalf of the governing body to administer and enforce the zoning ordinance, including the ordering in writing of the remedying of any condition found in violation of the ordinance, and the bringing of legal action to insure compliance with the ordinance, including injunction, abatement, or other appropriate action or proceeding.

(e) 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 ten dollars nor more than two hundred fifty dollars, and every day that such violation continues shall be a separate offense.

(f) For the collection of fees to cover the cost of making inspections,

issuing permits, advertising of notices and other expenses incident to the administration of a zoning ordinance or to the filing or processing of any appeal or amendment thereto.

(g) For the amendment of the regulations or district maps from time to time, or for their repeal. Whenever the public necessity, convenience, general welfare, or good zoning practice require, the governing body may by ordinance, amend, supplement, or change the regulations, district boundaries, or classifications of property. Any such amendment may be initiated by resolution of the governing body, or by motion of the local commission, or by petition of any property owner addressed to the governing body; provided, that the ordinance may provide for the consideration of proposed amendments only at specified intervals of time, and may further provide that substantially the same petition will not be reconsidered within a specific period, not exceeding one year.

§ 15-704.1. Nothing in this article shall be construed to authorize the impairment of any vested right, except that a zoning ordinance may provide that land, buildings, and structures and the uses thereof which do not conform to the regulations and restrictions prescribed for the district in which they are situated may be continued only so long as the then existing or more restricted use continues and so long as the buildings or structures are maintained in their then structural condition; that the uses of such buildings or structures shall conform to such regulations whenever they are enlarged, extended, reconstructed or structurally altered; and that such uses of buildings or structures shall conform to such regulations and restrictions in any event within a reasonable period of time to be specified in the ordinance.

§ 15-705. The local commission of each county or municipality may, and at the direction of the governing body shall, prepare a proposed zoning ordinance including a map or maps showing the division of the territory into districts and a text setting forth the regulations applying in each district. The commission shall hold at least one public hearing on such proposed ordinance or any amendment of an ordinance, after notice as required by § 15-104, and may make appropriate changes in the proposed ordinance or amendment as a result of such hearing. Upon the completion of its work, the commission shall present the proposed ordinance or amendment including the district maps to the governing body together with its recommendations and appropriate explanatory materials.

After the effective date of this act, no zoning ordinance shall be amended or reenacted unless the governing body has referred the proposed amendment or reenactment to the local commission for its recommendations. Failure of the commission to report in sixty days or such shorter period as may be prescribed by the governing body shall be deemed approval.

Before approving and adopting any zoning ordinance or amendment thereof, the governing body shall hold at least one public hearing thereon, pursuant to public notice as required by § 15-104, after which the governing body may make appropriate changes or corrections in the ordinance or proposed amendment. An affirmative vote of at least a majority of the members of the governing body shall be required to adopt, amend or reenact a zoning ordinance.

§ 15-706. In and for any county or municipality which has enacted or enacts a zoning ordinance pursuant to this act or prior enabling laws, there shall be created a board of zoning appeals, which shall consist of five

residents of the county or municipality, appointed by the circuit or corporation court of the county or city. Their terms of office shall be for five years each except that original appointments shall be made for such terms that the term of one member shall expire each year. The secretary of the board shall notify the court at least thirty days in advance of the expiration of any term of office, and shall also notify the court promptly if any vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members may be reappointed to succeed themselves. Members of the board shall hold no other public office in the county or municipality except that one may be a member of the local planning or zoning commission. A member whose term expires shall continue to serve until his successor is appointed and qualifies.

Counties and municipalities may, by ordinances enacted in each jurisdiction, create a joint board of zoning appeals, which shall consist of two members appointed from among the residents of each participating jurisdiction by the circuit or corporation court of each county or city, plus one member from the area at large to be appointed by the circuit or corporation court or jointly by such courts if more than one, having jurisdiction in the area. The term of office of each member shall be five years except that of the two members first appointed from each jurisdiction, the term of one shall be for two years and of the other, four years. Vacancies shall be filled for the unexpired terms. In other respects, joint boards of zoning appeals shall be governed by all other provisions of this article.

The board shall elect from its own membership its officers who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the board. The board may make, alter and rescind rules and forms for its procedures, consistent with ordinances of the county or municipality and general laws of the Commonwealth. The board shall keep a full public record of its proceedings and shall submit a report of its activities to the governing body or bodies at least once each year.

Within the limits of funds appropriated by the governing body, the board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services. Members of the board may receive such compensation as may be authorized by the respective governing bodies. Any board member may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the court which appointed him, after hearing held after at least fifteen days notice.

§ 15-707. Boards of zoning appeals shall have the following powers and duties.

(a) To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this article or of any ordinance adopted pursuant thereto.

(b) To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, when, owing to special conditions a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of the ordinance shall be observed and substantial justice done, as follows:

When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shall

lowness, size or shape of a specific piece of property at the time of the effective date of the ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the use of the property or where the board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the ordinance.

No such variance shall be authorized by the board unless it finds:

(1) That the strict application of the ordinance would produce undue hardship.

(2) That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.

(3) That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

No such variance shall be authorized except after notice and hearing as required by § 15-104.

No variance shall be authorized unless the board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.

In authorizing a variance the board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with.

(c) To hear and decide appeals from the decision of the zoning administrator on applications for such special exceptions as may be authorized in the ordinance. The board may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with.

No such special exception may be granted except after notice and hearing as provided by § 15-104.

(d) To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by any such question, and after public hearing with notice as required by § 15-104, the board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. The board shall not have the power, however, to rezone property or substantially to change the locations of district boundaries as established by ordinance.

§ 15-708. Applications for special exceptions may be made by any property owner, tenant, government official, department, board or bureau. Such application shall be made to the zoning administrator in accordance

with rules adopted by the board. The application and accompanying maps, plans or other information shall be transmitted promptly to the secretary of the board who shall place the matter on the docket, advertise a public hearing thereon which shall be held not less than ten days after such advertising, and give written notice of such hearing to the parties in interest. The zoning administrator shall also transmit a copy of the application to the local commission which may send a recommendation to the board or appear as a party at the hearing.

An appeal to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the county or municipality affected by any decision of the zoning administrator. Such appeal shall be taken within thirty days after the decision appealed from by filing with the zoning administrator, and with the board, a notice of appeal specifying the grounds thereof. The zoning administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the board or by a court of record, on application and on notice to the zoning administrator and for good cause shown.

The board shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof as well as due notice to the parties in interest and decide the same within sixty days. In exercising its powers the board may reverse or affirm, wholly or partly, or may modify, the order, requirement, decision or determination appealed from. The concurring vote of three members shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under the ordinance or to effect any variance from the ordinance. The board shall keep minutes of its proceedings and other official actions which shall be filed in the office of the board and shall be public records. The chairman of the board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

Where a building permit has been issued and the construction of the building for which such permit was issued is subsequently sought to be prevented, restrained, corrected or abated as a violation of the zoning ordinance, by suit filed within fifteen days after the start of construction by a person who had no actual notice of the issuance of the permit, the court may hear and determine the issues raised in the litigation even though no appeal was taken from the decision of the administrative officer to the board of zoning appeals.

§ 15-709. Any person or persons jointly or severally aggrieved by any decision of the board of zoning appeals, or any taxpayer or any officer, department, board or bureau of the county or municipality, may present to the circuit or corporation court of the county or city a petition specifying the grounds on which aggrieved within thirty days after the filing of the decision in the office of the board.

Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the board of zoning appeals and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not

stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

The board of zoning appeals shall not be required to return the original papers acted upon by it but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

Costs shall not be allowed against the board, unless it shall appear to the court that it acted in bad faith or with malice in making the decision appealed from.

§ 15-710. Whenever the regulations made under authority of this article require a greater width or size of yards, courts or other open spaces, require a lower height of building or less number of stories, require a greater percentage of lot to be left unoccupied or impose other higher standards than are required in any other statute or local ordinance or regulation, the provisions of the regulations made under authority of this article shall govern. Whenever the provisions of any other statute or local ordinance or regulation require a greater width or size of yards, courts or other open spaces, require a lower height of building or a less number of stories, require a greater percentage of lot to be left unoccupied or impose other higher standards than are required by the regulations made under authority of this article, the provisions of such statute or local ordinance or regulation shall govern.

ARTICLE 8

General Provisions

§ 15-800. Any violation or attempted violation of this act, or of any regulation adopted hereunder may be restrained, corrected, or abated as the case may be by injunction or other appropriate proceeding.

§ 15-802. This act shall not affect any resolution or ordinance enacted under any other law heretofore adopted except as specifically provided.

§ 15-803. No provision in any municipal charter in conflict with this act shall be affected hereby.

§ 15-804. All zoning ordinances adopted prior to the effective date of this act by any county or municipality authorized to adopt the same under any provision of Chapter 24 of Title 15 of the Code of Virginia are hereby validated, ratified and confirmed notwithstanding noncompliance with any technical requirement of such chapter.

2. That §§ 15-766.1 through 15-766.3, 15-779 through 15-891.10, 15-899 through 15-913, and 15-915 through 15-926.1 of the Code of Virginia, and all amendments thereof, are repealed.

A BILL to amend the Code of Virginia by adding a section numbered 10-12.4, to authorize the Board of Conservation and Economic Development to adopt regulations for use of land in the vicinity of certain places and areas having historic significance or interest; to prescribe the effect of such regulations and the method of enforcement thereof; and to provide for appeals from action of the Board with respect thereto.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia be amended by adding a section numbered 10-12.4, as follows:

§ 10-12.4. (a) The Board of Conservation and Economic Development may, whenever in its judgment it is required for the preservation for the use, observation, education and pleasure of the people of the Commonwealth of any historic place or area containing buildings or places in which historic events occurred or having special public value because of notable architectural or other features relating to the cultural or artistic heritage of the Commonwealth, and which are of such significance as to warrant conservation and preservation, adopt regulations designed to prevent any change in use of land in the vicinity of such place or area which would be detrimental to such purposes. Such regulations may, however, be adopted only as to historic places or areas which are owned by the United States, the Commonwealth, or a political subdivision or agency of either, or a nonprofit corporation incorporated or domesticated under the laws of this State having for its general purpose the preservation of such place or area for the benefit of the public. The adoption of any such regulation shall be governed by the provisions of Chapter 1.1 of Title 9 of the Code of Virginia except that the publication of any such proposed regulation, in addition to being in a newspaper of general circulation published in the city of Richmond, shall be also made in some other newspaper published in or having general circulation in the county or city wherein such place or area is located. A certified copy of each such regulation shall be filed for record upon its adoption in the office of the clerk of the court in which deeds are admitted to record of each county or city wherein any portion of the land affected thereby is located, and such regulation shall be indexed in the names of the owners of the parcels of land affected thereby; such regulation shall be effective only as to parcels of land as to which it is so indexed.

(b) Any such regulation may prohibit any change in land use from a use existing at the time of adoption of the regulation to a use which would be in violation of the purpose set forth in sub-section (a) of this section but shall not be effective to require a change in or discontinuance of a use being made of such land at the time of adoption of the regulation. The regulations adopted by the Board under this section shall control over any zoning ordinance or regulation adopted by any political subdivision of the Commonwealth.

(c) Any owner of land affected by any such regulation desiring to change the purpose for which such land is being used may apply to the Board of Conservation and Economic Development or its designated agent for a permit to do so; and if such permit is refused such landowner may appeal from the decision of the Board or its agent to the circuit or corporation court of the county or city wherein the land lies.

(d) The Board is authorized to initiate an action in the name of the Commonwealth to prevent the violation of any regulation adopted here-

under. The circuit or corporation court of the county or city wherein any land affected by such regulation lies shall have jurisdiction to hear and determine any such action. The decision of the court in any such action may be appealed by the Commonwealth or by any party to such action to the Supreme Court of Appeals. The Attorney General of Virginia shall represent the Board in any proceedings under this act.

A BILL to amend the Code of Virginia by adding a section numbered 33-136.2, to authorize the State Highway Commissioner to have certain maps or plats prepared at the request of and at the expense of governing bodies of counties, cities and towns, and certain other groups; and to authorize the Department of Conservation and Economic Development to receive and expend funds for such purpose.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia be amended by adding a section numbered 33-136.2, as follows:

§ 33-136.2. The State Highway Commissioner is hereby authorized in his discretion to have prepared photogrammetric maps or plats of specific sites or areas at the request of the governing bodies of counties, cities and towns of this Commonwealth, local nonprofit industrial development agencies, and local chambers of commerce, provided that such request is concurred in by the Board of Conservation and Economic Development or its designated agent and provided further that such governing body, agency or chamber agrees to reimburse the State Highway Department for the cost of making such maps or plats. The Department of Conservation and Economic Development is hereby authorized to receive from such governing body, agency or chamber the funds for such reimbursement and to pay the same over to the State Highway Department, and to expend any State funds made available for such purpose.

